SUPREME COURT OF THE UNITED STATES.

No. 293.

THE UNITED STATES, LIBELLANTS AND APPELLANTS,

vs.

C. A. WEED AND F. BLYDENBURGH, CLAIMTS, &c., 104 HHDS. AND 36 BARRELS OF SUGAR AND 237 BARRELS OF MOLASSES; ALSO 186 HHDS. OF SUGAR AND 103 BBLS. OF MOLASSES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 United States district court, eastern district of Louisiana.

THE UNITED STATES OF AMERICA
vs.
ONE HUNDRED AND FOUR HOGSHEADS AND THIRTY-SIX barrels of sugar and two hundred and thirty-seven bbls. of molasses. } In prize.

To the Honorable Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

The libel of information in prize filed herein by Rufus Waples, attorney of the United States for the eastern district of Louisiana, on behalf of said libellants and of the naval captors in interest, respectfully represents to this honorable court:

First. That the 104 hhds. of sugar, and 36 bbls. of sugar, and 237 bbls. molasses were captured as lawful prize on or about the fifteenth day of April, 1864, by the United States steamer Wyanza, Act. Vol. Lieut. S. B. Washburn, United States navy, commanding.

Second. That the goods were at the time of such capture, and are now, rightfully subject to such capture, and were and are lawful prize, and as such should be condemned and forfeited to the use of the libellants.

Third. That the said goods have been brought to the port of New Orleans, and are now at said port and within the jurisdiction of this honorable court.

Fourth. That by reason of the premises the said goods became and are liable to condemnation and forfeiture as lawful prize, and should be condemned and forfeited as lawful prize to the libellants.

That all and singular the premises are and were true, and within the jurisdiction of this honorable court; the testimony of the witnesses duly taken *in preparatorio* by the prize commissioners appointed by this honorable court, will be duly filed in the registry of this court.

Wherefore the said attorney of the United States, on behalf of the said United States, prays the usual process and monition of this honorable court against the said goods in this behalf to be made, and that all persons interested in the said goods may be cited to answer in the premises; and that all due proceedings being had therein, this honorable court may be pleased to decree for the condemnation and forfeiture aforesaid, and that the said goods may be condemned as lawful prize to the use of the said United States.

Dated New Orleans, April 20th, 1864.

(Sig.) RUFUS WAPLES,
United States District Attorney.

2 Let admiralty process issue as prayed for, April 20th, 1864.

(Sig.) K. LOEW, *D'y Clerk.*

3 The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize and into your possession take the one hundred and four hhds. of sugar, and thirty-six barrels of sugar, and two hundred and thirty seven barrels of molasses, now libelled by the United States of America for the causes set forth in the libel now pending in the district court of the United States for the eastern district of Louisiana; that you do cite and admonish the owner or owners and all and every other person or persons having, or pretending to have, any right, title, or interest in or to the same, to be and appear before a district court of

the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said sugar and molasses should not be condemned as prize forfeited to the United States, sold, and the proceeds thereof distributed according to law and agreeably to the prayer of the libellant; and how you have executed this warrant that you make return according to law.

[SEAL.] Witness the Honorable Edward H. Durell, judge of the said court, at New Orleans, this 20th day of April, 1864, and the 88th year of the independence of the United States.

K. LOEW, *D'y Clerk.*

4 In the United States district court, eastern district of Louisiana.

THE UNITED STATES
vs.
ONE HUNDRED AND FOUR HHDS. AND THIRTY-SIX BBLS. SUGAR AND TWO HUNDRED AND THIRTY-SEVEN BBLS. OF MOLASSES. } No. 7863.

In obedience to an admiralty warrant to me directed in the above-entitled suit, I have seized and taken into my possession one hundred and four hogsheads and thirty-six barrels of sugar and two hundred and thirty-seven barrels of molasses, now libelled by the United States for the causes set forth in the libel now pending in the district court of the United States. And I do hereby cite and admonish the owner or owners thereof, and all and every person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear at a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the date hereof, to show cause, if any they have or can, why the said sugar and molasses should not be condemned as prize, forfeited to the United States, and be sold agreeably to the prayer of libellants, and the proceeds thereof distributed according to law.

United States marshal's office, New Orleans, 20th day of April, 1864.

JAMES GRAHAM, *U. S. Marshal.*

Marshal's return.

Received April 20th, 1864, and in obedience to the within warrant, seized and took into my possession the within-described property. Posted copies of this warrant, the libel, and order of the judge on the door of the court-room, and published monition in the True Delta, a daily newspaper printed and published in New Orleans, on the 21, 25, 29 April and 3d of May, 1864.

Returned May 14th, 1864.

JAS. GRAHAM, *U. S. Marshal.*

5 *Order to take testimony.—From minutes of April 20th, 1864.*

UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR AND 537 BBLS. MOLASSES. } In prize.

On motion of Rufus Waples, U. S. attorney, in the name and behalf of the United States, on suggesting that there have been no persons captured with the prize proceeded against herein, it is ordered that the prize commissioners take the testimony of Julius F. Beyer, S. S. Swain, William St. John, Henry Hull, and such others as may be produced by the United States or the captors in interest.

Motion to bond, hearing and continuance.—From minutes of April 22nd, '64.

UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR, &C. } No. 7863.

I. P. Sullivan, esq., this day made and filed the following motion, to wit:

On motion of Sullivan, Billings & Hughes, proctors for Charles A.
6 Weed, claimant, it is hereby ordered that said claimant have leave to bond the property libelled herein under the 25th rule of the admiralty proceedings, by entering into a bond with security in a sum exceeding by one half the appraised value of the same, and that be appointed to appraise said property and to report thereon. Whereupon, after hearing the objection of the district attorney, it is ordered by the court that the motion lay over till to-morrow at ten o'clock a. m.

Motion continued indefinitely.—From minutes of April 23rd, 1864.

UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR &C. } No. 7863.

The claimant's motion to bond came up again. Sullivan, Billings & Hughes for claimants, district attorney for the United States. When after hearing counsel upon the application of the claimant's proctor, it is ordered that the motion be continued indefinitely.

7 *Bills of expenses, filed April 28th, 1864.*

UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR, &C. } No. 7863.

To Capt. Edward Bigelow, William St. John, Henry Hull, Drs.

To expenses incurred on attendance as witnesses in the above-entitled cause:

Transportation from and to Brashear City, $10 each.....	$30 00
Hotel bill, 5 days each, at $3 per day	45 00
	75 00

N. O., April 28th, 1864, Capt. E. Bigelow, Wm. St. John, and Henry Hull, sworn, say the above bill is reasonable and correct.

EDWARD BIGELOW,
Capt. Co. F, 23rd U. S. C. I.
WILLIAM ST. JOHN.
HENRY HULL.

Sworn to and subscribed before me this 28th April, 1864.
K. LOEW, *D'y Cl'k.*

Approved.
RUFUS WAPLES, *U. S. Att'y.*

8 *Order taxing bills of expenses.—From minutes of April 29th.*

UNITED STATES
vers.
104 HHDS. SUGAR, &C. } No. 7863.

On motion of the district attorney it is ordered that the actual expenses

of Capt. E. Bigelow, Henry Hull, and William St. John, witnesses on behalf of the United States in this case, be taxed at the sum of $25 each.

Claim and answer of C. A. Weed & Co., filed May 2nd, 1864.

United States district court, eastern district of Louisiana.

THE UNITED STATES
vers.
ONE HUNDRED AND FOUR HHDS. AND THIRTY-SIX BBLS. of sugar and two hundred and thirty-seven bbls. of molasses.

To the Honorable Edward H. Durell, judge of the United States district court for the eastern district of Louisiana:

And now comes Charles A. Weed, a loyal citizen of the United
9 States, domiciled in said State of Louisiana, into this court, and claims the said sugar and molasses as of his sole property, and states that he is the sole owner thereof. And he denies that said sugar or said molasses at any time was or now is rightfully subject to capture, or was or is lawful prize, or should be condemned or forfeited, or that the same ever became or now is liable to condemnation or forfeiture. And he annexes to this his claim his affidavit, setting forth the grounds upon which his claim rests.

Wherefore the said Charles A. Weed prays that he may have a decree adjudging said sugar and said molasses to him, together with the costs and damages which he has sustained by reason of the seizure and detention of the same.

C. A. WEED.

SULLIVAN, BILLINGS & HUGHES, *Proctors.*

Sworn to and subscribed before me this 2nd day of May, 1864.
K. LOEW, *D'y Clk.*

(Annexed.)

United States district court, eastern district of Louisiana.

10 THE UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR AND 237 BBLS. OF MOLASSES.

STATE OF LOUISIANA, *Parish of Orleans, ss:*

Personally appeared before me this 2nd day of May, 1864, Charles A. Weed, who, being duly sworn, did depose and say as follows: That he is the claimant named in the foregoing claim, and that said claim is just and true, and that he is able to establish the same; that he resides in said parish, and is and ever has been a good and loyal citizen of the United States; that on the 15th day of October, 1863, a license was duly obtained by and issued to this deponent from this supervising special agent of the fifth special agency, to purchase within thirty days five hundred hogsheads of sugar and one thousand barrels of molasses, in the parish of St. Mary's, in said State of Louisiana, and to transport the same to the city of New Orleans; that under and in strict accordance with said license this deponent did, through his agent, D. McLeod, on the twentieth day of October, 1863, purchase said sugar and said molasses from loyal citizens of the United
11 States, at Franklin, (which place was then within our military lines,) and within said thirty days transported the same to Cote Blanche

Station, within said parish of St. Mary's, that place being also within our military national lines, and being on the best route to the city of New Orleans; that on the 26th day of March, 1864, a second license was duly obtained by and issued to this deponent from said special agent for the transportation of five hundred hogsheads of sugar and three thousand barrels of molasses from said Cote Blanche, where the sugar and molasses purchased under the license first mentioned were then stored, to the city of New Orleans; that under and in strict accordance with said last-mentioned license this deponent, through his said agent, hired a transport belonging to the government of the United States, and, with the full approbation of the quartermaster of this department, sent the said transport to said Cote Blanche, and loaded the sugar and molasses so purchased as above and herein libelled on board the said transport, and shipped the same to said city of New Orleans, by way of Brashear City; that during the passage of said transport, so laden with the property herein libelled, said prop-
12 erty was on the 15th day of April, 1864, seized by the United States gunboat Wyanza. This deponent further says that throughout all of the times herein before mentioned, the said parish of St. Mary's, and the country in which all of said places and routes were situated, maintained a loyal adhesion to the Union and the constitution, and was occupied and controlled by forces of the United States, so far as it was occupied or controlled by the forces of the United States or the Confederate States of America; that the political branch of the government of the United States, namely, the President in conjunction with the Congress, acting directly and immediately through such organs as they had lawfully established, had by repeated acts recognized said parish of St. Mary's and the entire region through which said property had passed and was to pass on its way to said city of New Orleans, as being no longer in a state of insurrection against the United States; that on the 22nd day of September, 1863, the President of the United States issued a proclamation wherein he declared that on the 1st day of January, 1864, he would by proclamation designate the States and parts of States, if any, in which the people thereof,
13 respectively, should then be in rebellion against the United States; that on the 1st day of January, 1864, in accordance with such former proclamation, the President did, by proclamation, designate among the parts of States not in rebellion against the United States the said parish of St. Mary, and the entire region through which said property had passed and was to pass on its way to said city of New Orleans; that the Secretary of the Treasury, under and in pursuance of the acts of Congress and with the sanction of the President, did, on the 11th day of September, 1863, promulgate certain regulations, in the 10th of which regulations he authorized the supervising special agents to designate portions of territory in their respective agencies within the lines of national military occupation as trade or as supply districts; that in pursuance of said regulations the supervising special agent of said fifth special agency did, on the 16th day of December, 1863, designate the entire parish of St. Mary's and the whole region of country through which said property had passed and was to pass on its way to said city of New Orleans as supply districts; that such designation so made by said supervising special agent is unrevoked and still in force; that
14 on the 11th day of January, 1864, Major General Banks, commanding this department, in pursuance of the authority by the President in him vested, through a proclamation addressed to the people of the said State of Louisiana, invited the citizens of said State to assemble on the 22d day of February, 1864, to cast their votes for the officers of said State, and on the 1st Monday of April, 1864, to cast their votes for delegates to a State convention to revise the constitution of said State of Louisiana; that by a

subsequent proclamation the said General Banks, under authority given to him by the President, designated the places at which such votes should be cast for such officers and delegates, and that he designated the places in said parish of St. Mary where the people should assemble and cast their votes for such officers and delegates; that on said 22d day of February, 1864, and on said first Monday of April, 1864, the citizens of said parish did, in large numbers, and at the place and in the manner designated by such proclamations, assemble and cast their votes for such State officers and for delegates to such convention; that said convention is now in session in the city of New
15 Orleans, and that one of its sitting and actual members, elected in pursuance of said proclamations, is Charles Smith, esq., elected in and from said parish of St. Mary; that the officers for said State have all of them been recognized by the President as being duly elected by a loyal community; that all said proclamations, elections, and proceedings have had and have the direct and explicit sanction of the President, and that by virtue of his proclamations, and the acts done by him and under his direction and with his sanction, the inhabitants of said parish of St. Mary and of the entire region through which said property had passed and was to pass on its way to said city of New Orleans, have been recognized as being no longer in a state of insurrection against the United States, and the purchase and transportation of said property, so made and undertaken by this deponent, as herein set forth, have been authorized and rendered lawful.

C. A. WEED.

Sworn to and subscribed before me this 2d day of May, 1864.

K. LOEW, *D'y C'k.*

Bond for costs, filed May 2d, 1864.

UNITED STATES OF AMERICA,
Eastern district of Louisiana, ss, to wit:

Personally appearing before me, the undersigned, United States commissioner for the eastern district of Louisiana aforesaid, Charles A. Weed,
16 as principal, and I. P. Sullivan, as surety, do hereby acknowledge themselves jointly and severally to be indebted unto the United States of America in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattles, lands, and tenements, for the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators firmly by these presents. Whereas, in the matter of the United States *vers.* 104 hhds. and 36 bbls. of sugar and 237 bbls. of molasses, No. 7863 of the docket of the district court of the United States for the eastern district of Louisiana, a claim has been filed on behalf of C. A. Weed, this obligation to be null and void on condition that the said Charles A. Weed shall abide by the final decree rendered in the cause and pay all such costs, expenses, and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise, this obligation to remain in full force and virtue.

C. A. WEED. [SEAL.]
I. P. SULLIVAN. [SEAL.]

Signed and sealed at the city of New Orleans this 2d day of May, A. D. 1864.

K. LOEW, *Clerk to U. S. Commissioner*

17 United States district court, eastern district of Louisiana.

THE UNITED STATES OF AMERICA
against
104 HHDS. AND 36 BBLS. OF SUGAR AND 237 BARRELS of molasses, also 186 hhds. of sugar and 103 barrels of molasses. } In prize.

To the Honorable Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

The supplemental libel of information in prize filed herein by Rufus Waples, attorney of the United States for the eastern district of Louisiana, on behalf of said libellants and of the naval captors in interest, respectfully represents to this honorable court:

First. That the 290 hhds and 36 bbls. of sugar and 340 bbls. of molasses were captured as lawful prize on or about the 23d day of April, 1864, and by the United States steamer Wyanza, L. B. Washburn, United States navy, commanding.

Second. That the sugar and molasses were at the time of such capture, and are now, rightfully subject to such capture, and were and are lawful prize, and as such should be condemned and forfeited to the use of the libellants.

Third. That the said sugar and molasses have been brought to the port of New Orleans, and *and* are now at said port and within the jurisdiction of this honorable court.

Fourth. That by reason of the premises the said sugar and molasses became and are liable to condemnation and forfeiture as lawful prize, and should be condemned and forfeited as lawful prize to the libellants.

That all and singular the premises are and were true and within the jurisdiction of this honorable court; in attestation whereof the said attorney exhibits the said vessel's papers and the documents, &c, found on board, together with the testimony of the witnesses, duly taken *in preparatorio* by the prize commissioners appointed by this honorable court, which are or will be duly filed in the registry of this court.

Wherefore the said attorney of the United States, on behalf of the said United States, prays the usual process and monition of this honorable court against the said sugar and molasses to be made, and that all persons interested in the said sugar and molasses may be cited to answer in the premises, and that all due proceedings being had therein, this honorable court may be pleased to decree for the condemnation and forfeiture aforesaid, and that the said sugar and molasses may be condemned as lawful prize to the use of the said United States; and the said attorney prays this his supplemental libel of information may be filed.

Dated New Orleans, April 29th, 1864.

(Sig.) RUFUS WAPLES,
United States District Attorney.

18 *Order.*

Let this supplemental libel be filed and admiralty process issue as prayed for.

May 3d, 1864.

(Sig.) E. H. DURELL, *Judge.*

19 The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize and into your possession take

the 104 hhds. and 36 barrels of sugar and 237 barrels of molasses, also 186 hhds. of sugar and 103 barrels of molasses, now libelled by the United States of America for the causes set forth in the libel now pending in the district court of the United States for the eastern district of Louisiana, that you do cite and admonish the owner or owners, and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said property should not be condemned and sold agreeably to the prayer of the libellant; and how you have executed this warrant that you make return according to law.

Witness the Honorable Edward H. Durell, judge of the said court, at New Orleans, this third day of May, 1864, and the 88th year of the independence of the United States.

[SEAL.]

K. LOEW, *D'y Clerk.*

20 *Marshal's return.*

Received, May 3, 1864, and on the same day, month, and year seized and took into my possession the within-described property, posted copy of the within warrant, libel, and order of the judge on the door of the court-house, and published monition in the New Orleans Times, a daily newspaper printed and published in New Orleans, on the 4, 10, 14, 17, 21 May, '64. Returned May 26th, 1864.

JAS. GRAHAM, *U. S. Marshal.*

21 *Prize commissioners' report, filed June 10th, 1864.*

In the matter of 104 hhds. and 36 bbls. sugar, and 237 bbls. molasses, also 16 hhds. sugar, and 70 bbls. molasses, in prize, N. O. May 2d, 1864.

To the hon. the judge of the district court of the United States for the eastern dist. of Louisiana:

The undersigned, prize commissioners of this hon. court, respectfully report: That on the 19th day of April, 1864, they received notice from J. F. Beyer, U. S. N., prize master of 104 hhds and 36 bbls. sugar and 237 bbls of molasses, and on the 22d day of April, 1864, they also received notice from B. P. Stanley, U. S. N., prize master of 16 hhds. of sugar and 70 bbls. of molases, both prize masters at ached to the U. S. st'r Wyanza, of which L. B. Washburne is commander; that the said B. P. Stanley, U. S. N., reported to us that 86 hhds. of sugar and 23 bbls. of molasses were shipped on board the sch'r Kate from Brashear City, a part of the above lot, to be delivered to the prize commissioners of this court. That he has produced to me a certain bill of lading, which was turned over to James Graham, esq., on the arrival of said schooner Kate and cargo, and the said prize

22 masters J. F. Beyer and B. B. Stanley brought with them to this city the sugar and molasses enumerated above as a prize of the U. S. st'r Wyanza; that the said sugar and molasses had been captured on the 15th day of April, 1864, on or about 7½ p. m, in Atchafalaya Bay, on board of the U. S. transport steamer A. G. Brown, for violating the rules governing the blockade at present instituted by the U. S. government, said sugar and molasses enumerated above, and a prize crew had been appointed by said J. B. Washburne to bring said sugar and molasses as a prize into this port, and report the same as required by the law and the usages in such cases observed. That said prize masters did seasonably deliver to us all such papers, passes, documents, &c., as were in their possession, having a

reference to and a connection with the captured property, and that the said prize masters produced to me six witnesses, captured or connected with said sugar and molasses, to wit:

1st. Henry Hull, pilot of the steamer A. G. Brown.
2d. Wm. St. John, sup't of laborers on the steamer A. G. Brown.
3d. Edward Bigelow, capt. U. S. A. " " "
4th. M. L. Swain, pilot " " "
5th. Julius F. Beyer, act. ensign on the U. S. st'r Wyanza.
6th. B. P. Stanley, paym'r's clerk.

That we examined said witnesses separately on oath, and not in presence of each other, and unattended by counsel, after each had taken the
23 prescribed oath as required by law, and that the depositions were signed by each witness respectively, as the same are now transmitted to your honorable court. That we took possession of the said sugar and molasses on the 19th and 22d days of April, 1864, as delivered by said prize masters respectively, and turned over the same to James Graham, esq., U. S. marshal of this court, who is to safely keep the same until further order of the court. All of which, including the depositions of said prize masters and witnesses produced by them, are now securely sealed, and are hereby submitted to this honorable court and deposited in its custody. The total amount of sugar and molasses seized on board of the steamer A. G. Brown on the 15th of April, 1864, is 206 hhds. and 36 barrels of sugar, and 330 barrels of molasses, which are now in the possession of the U. S. marshal. That on the 28th of April, 1864, the said Julius F. Beyer also reported to me the capture by the same U. S. S. Wyanza of 84 hhds. of sugar seized on the steamer A. G. Brown on the 23d of April, 1864, for the same reasons as above. That we examined two witnesses produced by the above-named prize master, viz: James Mann and Henry Hull, in regard to said seizure, which depositions are herewith transmitted to the hon. court.

T. B. THORPE,
U. S. Prize Commissioner.

24 District court of the United States, eastern district of Louisiana.

In the matter of 104 hhds. and 36 bbls. sugar and 237 bbls. molasses, in prize.

Julius F. Beyer, prize master of the sugar and molasses above mentioned, detached from the U. S. st'r Wyanza of which, L. B. Washburne is commander, being duly sworn, deposes and says that the sugar and molasses were captured on board the st'r A. G. Brown, on the 15th day of April, 1864, about 7½ p. m., in Atchafalaya Bay, for violating the rules governing the blockade at present instituted by the U. S. government; and said J. F. Beyer deposes and says that no papers whatever were captured with the said sugar and molasses.

JULIUS F. BEYER,
Act. Ensign, U. S. N.

Sworn to and subscribed before me this 10th day of April, 1864.
New Orleans, La.

T. B. THORPE,
U. S. Prize Commissioner.

25 District court of the United States, eastern district of Louisiana.

In the matter of 104 hhds. and 36 bbls. sugar and 237 barrels of molasses, also 16 hhds. sugar and 70 bbls. molasses, in prize.

B. P. Stanley, prize master of 16 hhds. sugar and 70 bbls. of molasses, de-

tached from the U. S. st'r Wyanza of which J. B. Washburne is commander, being duly sworn, deposes and says that the said sugar and molasses were captured on board the U. S. st'r A. G. Brown, on the 15th day of April, 1864, about 7½ p. m., in Atchafalaya Bay, with the lot previously reported, for violating the rules governing the blockade at present instituted by the U. S. government. And said B. P. Stanley further deposes and says that no papers were captured with the said sugar and molasses.

B. P. STANLEY,
Paymaster's Clerk, U. S. N.

Sworn to and subscribed before me this 22d day of April, 1864.
New Orleans, La.

T. B. THORPE,
U. S. Prize Commissioner.

26 District court of the United States, eastern district of Louisiana.

In the matter of 104 hhds. and 36 bbls. of sugar and 237 barrels of molasses, in prize.

Deposition of Julius F. Beyer, acting ensign and prize master, sworn and examined in preparatorio on the 19th day of April, 1864, at the office of the prize commissioners of the district court of the United States for the eastern district of Louisiana, the said witness having been produced for such examination by Rufus Waples, esq., U. S. district attorney, says that the government steamer A. G. Brown was sent to the westward of the Atchafalaya River, outside the federal lines, to get some sugar and molasses. On this boat were some Union soldiers to protect the boat and assist them in getting the sugar and molasses. I do not mean to say they were authorized to buy such sugar and molasses from the Confederates. This boat I think had been chartered by New Orleans merchants to bring the sugar and molasses down. When the steamer arrived near Brashear City, or some 35 or 40 miles from it, Capt. Washburne of the U. S. st'r Wyanza, to which I
27 am attached as act. ensign and executive officer, went on board the Brown and enquired whether they had the proper permission. The Brown had no such permit; whereupon Capt. Washburne seized the vessel and cargo at being engaged in an unlawful trade. I was put on the Brown as prize master. The seizure was made on 15th April, 1864, in the Atchafalaya River about 35 or 40 miles below Brashear City. A part of the property seized, to wit: 104 hhds. and 36 bbls. of sugar, and 237 bbls. of molasses were brought to this city by railroad under my charge; the balance of the cargo and the vessel are yet at Brashear City. On board the A. G. Brown there were some guerillas and rebel officers, and although there were Union soldiers on board, the guerrillas and rebels were not arrested. This was whilst the Brown was engaged in taking in such sugar and molasses. Bailey Vincent was the leader of the guerilla party, as I understood from the coopers and men belonging to the A. G. Brown.

JULIUS F. BEYER,
Act. Ensign, U. S. Navy.

Sworn to and subscribed before me this 19th day of April, 1864.

T. B. THORPE,
U. S. Prize Commissioner.

28 United States district court, eastern district of Louisiana.

In the matter of 104 hhds. and 36 bbls. sugar and 237 bbls. of molasses, in prize.

Deposition of M. L. Swain, pilot, a witness produced, sworn, and examined

in preparatorio on the 20th day of April, 1864, at the office of the prize commissioners of the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination, by Act. Ensign Julius F. Beyer: I was pilot of the U. S. transport J. M. Brown, which vessel went in February last to Cote Blanche Island, to take in a cargo of sugar and molasses; we arrived at the island and remained there some 20 hours, but were unable to land owing to the appearance of some forty rebel cavalry, who prevented our boat from being made fast to the island. During the time we lay there we shelled the island repeatedly, but were unable to land for want of sufficient force to drive the rebels away. I do not know who sent us on that expedition, as I was pilot of the boat, and not supposed to know. There was a spec-
29 ulator on board named Adams, a dealer in sugar and molasses; we were under his orders, and were to do as he told us; we lay there those 20 hours by his orders, and left when he told us to leave, and returned to Brashear City the object of the trip being unaccomplished. The steamer A. G. Brown started out from Brashear City some time about the 3d or 4th of April, I cannot say positively as I was in town at the time, and as I heard from the pilot, Henry Hull on the same expedition on which we had been. I know nothing of her doings, as I was in New Orleans at the time.

M. L. SWAIN.

Sworn to and subscribed before me this 20th day of April, A. D. 1864.

T. B. THORPE,
U. S. Prize Commissioner.

30 District court of the United States, eastern district of Louisiana.

In the matter of 104 hhds. sugar, and 237 bbls. 36 bbls. do. and molasses, also 16 hhds. sugar and 70 bbls. molasses, in prize.

Deposition of B. P. Stanley, paymaster's clerk of the U. S. st'r Wyanza, and prize master of 16 hhds. sugar and 70 barrels of molasses, sworn and examined in preparatorio on the 22d day of April, in the year A. D. 1864, at the office of the prize commissioners of the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney. I am paymaster's clerk of the U. S. steamer Wyanza, and was on board of her at the time of capture of steamer A. G. Brown's cargo of sugar and molasses. On the 15th day of April we left Brashear City to go down the bay and bring up a coal schooner. The schooner was there, but we were unable to tow her up, on account of the force of the wind, it blowing too hard. On our return to Brashear we discovered the steamer A. G. Brown coming into Atchafalaya Bay, on her way to the same place from Cote
31 Blanche Bay, where she had loaded with a cargo of sugar and molasses. The steamer A. G. Brown had a detachment of United States soldiers on board with two howitzers, under the command, I believe, of Captain Evans, from Brashear, who went with her to Cote Blanche B y, and there landed under a flag of truce, and remained two or three days. The captain of the Brown informed me, after the capture, that when he had gone into Cote Blanche Bay the rebels there asked him if they came as friends or foes, and being answered that we came as friends, permitted us to land under a flag of truce. That while lying there a party of rebels came on board one evening, under a lieutenant of Bailie Vincent's command, the said Bailie Vincent being the rebel commander of that section of the country, and took possession of the steamer Brown; they remained on board two or three days, and then left the boat. The captain of the Brown gave me no reason why

the rebels, after having possession of the boat, left her. He also informed me that while lying there, and the rebels being on board, they were at work putting on board this sugar and molasses. After receiving it all on
32 board they started on their return to Brashear City, the rebels having left the boat. After entering the Atchafalaya they were discovered by our vessel, and boarded, and when asked to show their papers they were unable to do so, not having any; we then took her in charge, and having placed one of our officers on board, we proceeded to Brashear City, the Brown arriving there after we did. That the commander of the Wyanza, on arriving at that place, went to the U. S. quartermaster there, and asked to see under what authority the A. G. Brown went within rebel lines, (the Brown being a transport in the quartermaster's department;) the quartermaster, Captain Bradshaw, replied that he had papers from General N. P. Banks, permitting the boat to proceed there, and when asked to show them he abruptly replied "that he would do no such thing." The 16 hhds. sugar and 70 barrels molasses are a part of her cargo; 104 hhds. and
33 36 bbls. sugar and 237 barrels of molasses having previously arrived at this port, and there is yet to arrive a schooner having on board, according to bill of lading, eighty-six hhds. of sugar and twenty-three barrels of molasses, there having been seized in all two hundred and six hogsheads of sugar, thirty-six barrels of sugar, and three hundred and thirty or thirty-five barrels of molasses.

B. P. STANLEY,
Paymaster's Clerk, U. S. Navy.

Sworn to and subscribed before me this 22nd day of April, A. D. 1864.
T. B. THORPE, *U. S. Prize Commissioner.*

District court of the United States, eastern district of Louisiana.

34 In the matter of 104 hhds. and 36 bbls. sugar and 237 bbls. molasses, also 164 hhds. sugar and 70 bbls. molasses, in prize.

Deposition of Wm. St. John, employee U. S. quartermaster's department, a witness produced, sworn, and examined in preparatorio on the 26th day of April, in the year 1864, at the office of the prize commissioners of the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney, in behalf of the captors of a certain lot of sugar and molasses.

That on the 6th of April I started from Brashear on the U. S. transport "A. G. Brown," under the orders of the ass't quartermaster, Bradshaw, stationed at Brashear City; said Capt. Bradshaw is what is termed post quartermaster. We proceeded with the steamer A. G. Brown to a place
35 commonly called Huff's Island, situated on Cote Blanche Bay. On arriving at Huff's Island a boat was sent ashore from the steamer by order of Capt. Evans, U. S. N., who had the entire expedition under his command. Capt. Hardenbrook is the actual captain of the A. G. Brown, but he had nothing to do after we left Brashear but to obey Capt. Evans's orders. Said Captain Evans is attached to the 91st N. Y. reg't, Col. Tarbell commanding. The small boat of the steamer, sent out under orders from Capt. Evans, visited Huff's Island and returned; then there was a flag of truce hoisted on the A. G. Brown by order of Capt. Evans. In the mean time there appeared on the shore, a quarter of a mile off, three or four men on horseback, who, I subsequently learned, called themselves independent scouts. They told me that they were under command of nobody, but that, though there was no organization amongst them that made him so, still they

agreed to call Bailey Vincent their superior officer, and that they voluntarily obeyed him. The names of these independent scouts I learned to be Jas.
Carlin, Collins, and Whittington; there were others of the band who
36 came on the A. G. Brown, but I did not learn their names. I never saw Mr. Bailie Vincent on the boat; saw him, however, on the shore. These men, the independent scouts, through Capt. Collins, as he was called, said that as our vessel came under a flag of truce, that we, the people on the A. G. Brown, could take the sugar, for there had been a proper unstanding between the scouts and a man by the name of Doyle, an Irishman, said to have had a British protection in his pocket. This Doyle was present at the time, and was very intimate with the independent scouts, calling them by their given names, as Tom, Dick, and Bill. He did not go to Huff's Island on the boat, but I found Doyle on the shore. He rode into the country, went where he pleased, and seemed to be as much at home as any of the scouts. I should not have known Doyle from a scout had he not represented himself as a purchaser. He told me "that in this sugar speculation there was a dam big thing." Some of the scouts had Confederate uniform on, some had not, but all were armed with six-barrelled revolvers. Doyle was armed. After the arrangements were completed to get the sugar
on the boat, under the orders of Capt. Evans, I took my laborers
37 ashore for the purpose of putting the sugar on board. I started on the A. G. Brown to Huff's Island under the impression that the trip was a legitimate one; that the U. S. troops on the boat, forty-one men, infantry, under the commnnd of Capt. Bigelow, and eight artillerists and two brass pieces of artillery, rifled cannon, were taken along to make a legitimate seizure; and after I got ashore on Huff's Island, and discovered what I deemed to be a complicity between some one on our side and that of the enemy, I denounced the whole transaction in no measured terms. I am a citizen of the United States, and owe allegiance to the United States government, and would not engage in any illegitimate transaction knowingly. I am a citizen of St Louis, where my wife and children reside. For the denunciation I uttered upon the abuse of a flag of truce I was arrested by order of Capt. Evans, and a guard was placed over me. Capt. Evans said that my remarks of, "that the whole transaction was a damned rascally thing," &c., was personal to him; but I made no remark to him personally, but denounced the whole transaction and any one individually concerned in it.
In the mean time the laboring men whom I brought out on the boat
38 came ashore, and under the direction of Capt. Hardenbrook, of the A. G. Brown, and her mate, Mr. Mann, commenced putting the sugar and molasses on board. For reasons which I don't understand, I was, before the sugar and molasses were all put on the steamer, released from arrest, and superintended the loading of over three fourths of the cargo. The molasses, most of it, was put aboard at Weeks Island, thirty-four miles from Huff's Island. The sugar was put on the A. G. Brown from the shore, first in a barge and then pulled out to the steamer. There were something like, I believe, three hundred and nine hogsheads of sugar. While the loading was going on the neighboring men living in the vicinity came down to the landing and expressed their open and avowed hostility against the government of the United States. The A. G. Brown left the barge at Huff's Island, took the military along and three Confederate scouts, Collins, Carlin, and Burns; two of these men were called "captain;" they were armed after reaching Week's Island. I saw a portion of the same party who were at Huff's Island; they had ridden around by land to the place called Week's
Island. There were over three hundred barrels of molasses taken on
39 board at Week's Island. The molasses being on board, the steamer, with the three Confederate scouts, returned to Huff's Island, took the

barge in tow, which was loaded with sugar and molasses, and proceeded on our way to Brashear City. After having gone as far as Morrison's Cut-off, we were overtaken, or rather at the cut-off we saw the U. S. gunboat Wyanza, in the Atchafalaya River. The Wyanza sent an officer on board the A. G. Brown, and demanded of a Mr. McLeod, who had accompanied us on the voyage, to show his papers, and I believe that this officer of the U. S. gunboat Wyanza took possession of said papers. After the delivery of the papers the gunboat proceeded ahead and went on to Brashear City. The A. G. Brown, with the barge in tow, arrived at Brashear some hours after the gunboat. An officer of the Wyanza now came on board of the A. G. Brown, and stated to me that the A. G. Brown and barge were prizes to the United States. The sugar remained under the charge of the prize master and his crew until it was, with the molasses, coopered and sent to New Orleans by railroad and water conveyance. So far as I know, I believe the
40 whole thing was an illegal transaction. An attempt was made to break the laws of the United States. I repeat that I would not have anything to do with the transaction if I had known it to have been the intention of the parties who engaged me to violate any laws of the United States or accredited officers of said government. My business at Brashear City is superintendent of contraband labor, appointed by Capt. Bradshaw, U. S. quartermaster's department.

WM. ST. JOHN.

Sworn to and signed before me this 26th day of April, 1864.
New Orleans, La.

T. B. THORPE, *U. S. Prize Commissioner.*

41 District court of the United States, eastern district of Louisiana.

In the matter of 104 hhds. and 36 bbls. sugar and 237 bbls. of molasses, also 16 hhds. sugar and 70 bbls. molasses.

Deposition of Edward Bigelow, capt. 93d U. S. I. C., a witness produced, sworn, and examined in preparatorio, on the 26th day of April, 1864, at the office of the prize commissioners of the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney, in behalf of the captors of a certain lot of sugar and molasses.

That on the afternoon of the 6th of April, 1864, I received orders from Col. Day, commander of the post at Brashear, through Lieut. Col. Anderson, com'd'g 93rd reg't, to report on board of the U. S. Qr. Mr. steamer A. G. Brown, at 7 o'clock p. m., with four days' rations and forty rounds of cartridge to each man. I reported agreeable to the order, and I met at the steamer A. G Brown Capt. Evans, U. S. vol., 91st New York, who told me, as I
42 understood him, that he was in command of the expedition. I took my company, forty-one men, and Second Lieut. H. T. Powell, on the boat, and found six men and two more commissioned officers of artillery, 2nd Connecticut artillery, with two brass howitzers. About 11 o'clock p. m. the A. G. Brown started out, ran about two hours, and cast anchor. At daylight we started again, (the 7th,) reached the mouth of the Atchafalaya, where we laid up until the next morning. About four o'clock (the 8th) we weighed anchor again, and reached Huff's Island between two and three o'clock in the afternoon. As we approached the island saw two men pulling ashore in a skiff, and saw three ashore. At this time the men under my command were ready for action, the artillery was loaded and turned towards the shore. Some one ashore, witnessing these preparations, shook a white

Copy.

Treasury Department.

July 8, 1863.

Cuthbert Bullitt, Esq,
Acty Collector,
New Orleans, La.

Sir:

I am advised by Mr. Hutchins, Special agent of this Department, who was sent to New Orleans to investigate matters connected with the offices there subordinate to this Department, that a difference has arisen between yourself and the Collector of Internal Revenue, concerning the right to grant permits to boats conveying goods to points within the State of Louisiana or elsewhere, otherwise than by sea.

The duty of granting permits for boats and cargo under the regulations concerning internal intercourse belongs to the Collector of Internal Revenue.

Whenever the cargo of any boat shall have been examined and the boat and cargo permitted by him, the boat will be cleared by you to proceed to her destination.

No articles can be shipped unless previously permitted by the Collector of Internal Revenue.

I am

Very respectfully,

(signed) S. P. Chase,

Secretary of the Treasury.

Copy.

Treasury Department.

June 10th, 1863.

George S. Denison, Esq.,
Collector of Internal Revenue
New Orleans, La.,

Sir:

I transmit herewith for your information and government a copy of Regulations concerning Internal and Coastwise Commercial Intercourse, prescribed by me March 31, 1863, under acts of Congress approved, respectively, July 13, 1861, May 20, 1862 and March 12, 1863, which Regulations you will regard as superseding all other Rules and Regulations theretofore issued, in any way conflicting or inconsistent therewith.

You are hereby authorized to grant the permits required by the said Regulations for intercourse, under such local rules and restrictions as may from time to time be made by Benj. F. Flanders, Esqr, the Supervising Special Agent of the Treasury Department, for the States of Louisiana, Mississippi and Texas, subject to my approval.

In the discharge of the duties herein devolved upon you, you will exercise the greatest care to prevent any supplies whatever from reaching persons in insurrectionary States or sections beyond the military lines of the United States forces.

You will regard as unlawful all commercial intercourse with any part of the States of Georgia, South Caro-

lina, North Carolina, Tennessee, Alabama
Louisiana, Texas, Arkansas, Mississippi,
Florida and Virginia, (except the forty-
eight counties of Virginia designated as
West Virginia, and except the ports
of New Orleans, Key West, Port Royal
and Beaufort in North Carolina)
except so far as the same may be
licensed and permitted under these
Regulations: and you will grant no per-
mits for commercial Intercourse there-
with until after sections thereof have
been properly declared open to trade
by the Supervising Special Agent of
the Treasury Department, and only
then in compliance with the local
rules and restrictions of the Supervising
Special Agent, provided for in section

19. And in case any change shall be made therein by him, or in case any temporary suspension or qualification of this authority to you to grant permits shall be made by him, you will faithfully observe and be governed by the same.

× × × × ×

(signed) S. P. Chase,

Secretary of the Treasury

handkerchief; the A. G. Brown at the same time cast anchor. A man now came on board the steamer from the shore; he met Capt. Evans, the captain of the boat, and other persons, with whom he seemed to be acquainted. This man was invited into the cabin and treated as a guest. Capt. Evans now ordered the yawl to be got ready, and in company with the cap-
43 tain of the boat, Mr. Hardenbrook, Mr. McLeod, known to be a speculator, who left Brashear with me and who claimed to be the owner of the sugar, two oarsmen, and a sergeant, and one man of my command, with guns, with these persons, the yawl was pulled ashore. In the mean time I was ordered by Capt. Evans to keep a good lookout, and see that there were no Confederate forces advancing from any quarter, which I did. I did not go ashore for two days after this, so that I know nothing of what happened ashore in these two days. During this time, however, the sugar was brought on the A. G. Brown from the shore. These parties or persons who went ashore in the yawl after half an hour returned to the steamer, bringing with them a man, who styled himself Capt. Collins, who claimed to be Confederate commander of the post at Huff's Island. He was taken into the cabin by Capt. Evans and others; they had a jolly time inside, and seemed to be on very intimate terms. I did not go into the cabin; duty kept me outside, so that I heard nothing of the conversation that ensued in the cabin. I presume that Capt. Collins, who was armed, and the party in the cabin remained there a half hour, and that the party returned to the shore, and also the man who first came on board in the skiff. In the
44 mean time the barge which was fastened to the A. G. Brown was taken to the island, or wharf at Huff's Island, in charge of the laborers, mate, and Mr. St. John. Shortly after this, say about five o'clock, Captain Hardenbrook, master of the A. G. Brown, came on board and raised a flag of truce I had been previously ordered to take my men out of sight, and the artillerymen were ordered to cover up their guns. This order came from Capt. Evans, who commanded the expedition. Meantime the parties interested went on loading the steamer. Mr. St. John, I heard, was under arrest from Capt. Evans for using, as Capt. Evans said to me, "disrespectful language." The loading of the steamer with sugar was completed on Monday evening, April the 11th, 1864. The next morning the steamer proceeded to Weeks Island, thirty-four or forty miles distant, where the load of molasses was taken on board. This accomplished, the steamer left Week's Island after dark, and reached Huff's Island about 12 o'clock on Thursday, when the steamer took in some wood, and on Friday the steamer, with the barge in tow loaded with sugar, left for Brashear City. Near the mouth of the Atchafalaya River, about sunset on the 15th of April, 1864, we were overtaken by the U. S. gunboat No. 43, and her captain, Mr. Wash-
45 burne, came on board of the A. G. Brown, and asked Mr. McLeod for his papers. (Mr. McLeod accompanied the steamer from Brashear City, and claimed to own the sugar.) Mr. Washburne, of the U. S. gunboat, decided, after due examination, that Mr. McLeod did not have the requisite papers, and pronounced that the cargo was a lawful prize. He then went on board of his gunboat, sent a prize officer on board of the A. G. Brown, who took possession, and in possession of this prize master the A. G. Brown proceeded to Brashear City. There was landed from the A. G. Brown at Huff's Island 1 bbl. of flour and one large keg, said tocontain whiskey.

EDWARD BIGELOW,

Capt. Co. F 93rd U. S. I. C., formerly known as 25th Corps D'Afrique.

Sworn to and signed before me this 26th day of April, 1864. New Orleans, La.

T. B. THORPE, *U. S. Prize Commissioner.*

46 District court of the United States, eastern district of Louisiana.

In the matter of the 104 hhds. and 36 bbls. sugar, and 237 bbls. of molasses and 16 hhds. sugar, and 70 bbls. molasses, in prize.

Deposition of Henry Hull, pilot of the st'r A. G. Brown, a witness produced, sworn, and examined in preparatorio on the 27th day of April, 1864, at the office of the prize commissioners of the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney, in behalf of the captors of certain lots of sugar and molasses.

I am pilot on the steamer A. G. Brown; am a citizen of the United States; have a family living in New Orleans; hold the office of pilot from U. S. quartermaster, and am in government employ. Have been pilot of the steamer A. G. Brown, about six months; since the federal troops went to Brashear, somewhere about the 6th of October, 1863. On Wednesday,
47 the 6th of April, 1864, 8 o'clock p. m., I took charge of the A. G. Brown, as pilot to Huff's Island in Cote Blanche Bay. There were some forty U. S. infantry on board, under command of Capt. Bigelow, and eight artillerists and two pieces of artillery, under command of Capt. Evans, the boat being under his, Evans's charge; after it left Brashear City until the boat returned there it remained under his command. The real capt. of the boat was James Hardenbrook, but he gave no commands after the boat left Brashear, but obeyed Capt. Evans's orders. The steamboat arrived at Huff's Island on the 8th of April, at 3 o'clock p. m. When we got there I saw some four or five rebels on horseback on the shore, some quarter of a mile from the boat, and two in a small life-boat in the water. I suggested to Capt. Evans that he should run up something white to keep the rebels from leaving, as they seemed about to go away. Capt. Evan said, all right, and I waved in my hand a white piece of cloth, and it was answered from shore, and one man came out to us in a small boat. Capt. Evans, Capt. Hardenbrook, Mr. McLeod, and two colored soldiers armed, with some boat rowers, went ashore. When near to shore they were halted by a man calling
48 himself Collins who demanded by what right they came there, and honestly came. Capt. Evans replied that he came to get some sugar on a peaceable errand, and wanted to know if he could get it. Collins replied that he could; the party in the boat and Collins then returned to the A. G. Brown. I would here state that what occurred between Capt. Evans and Collins is stated by me as related by Capt. Evans to me immediately after his return from the shore. Collins remained on the boat about an hour and a half, when the party with myself returned ashore, all apparently on the best of terms. Before Collins came on board a flag of truce had been, by Capt. Evans's orders, hoisted at the flagstaff. When we got ashore and was given that a flag of truce was raised on the hill. Capt. Evans then took a saddled horse standing near by, and rode out in the country some third of a mile, where he met five or six rebels armed with revolvers, commanded by Bailey Vincent. The rebels then came down to the landing with Capt. Evans, and all parties took a drink. The flat which was in tow of the A. G. Brown had been, in the mean time, brought ashore by the laborers of the boat, and the work of loading the flat-boat or barge with sugar commenced. I saw a man named Doyle, armed, come down to the landing. He had run the blockade at Brashear, and come down to Huff's Island. He, Doyle, told me that it
49 was all right about the sugar, that he was going to get in a good deal more in the same way. Doyle says he is an Irishman with a British protection. The rebels told me that if it had not been private sugar, it should never have been taken away. I saw one of the rebels with a hundred-dol-

bar treasury note in his possession, which he said had been given him by Doyle. All the rebels were armed with revolvers, and claimed to be soldiers commanded by Major Bush, 2nd Louisiana rebel cavalry. I saw the rebel with the hundred dollar bill ask Captain Hardenbrook, of the A. G. Brown, to change the bill, which was done, and the rebel subsequently purchased with some of the small bills he had received, some whiskey, tobacco, and segars, at the steamboat bar. I saw Mr. St. John, who had charge of the laborers on the boat by order of U. S. Q. M. at Brashear, (the quartermaster's name is Capt. Bradshaw,) put under arrest by order of Capt. Evans, the said St. John being arrested for speaking about the rebels in a contemptible manner, and for damning the whole sugar transaction as an illegal and wicked proceeding. Captain Evans said it was disrespectful language addressed to
50 him. I heard two of the artillerymen say that St. John's language was not addressed to Capt. Evans, but was applied to the rebels, and to the character of the sugar transaction. I heard Capt. Hardenbrook say that St. John ought to be hung for using such language. All seemed to be more anxious to please the rebels than stand up for their country and flag. Doyle bought about ten gallons of whiskey from the boat; they were sold to him by the bar-keeper; don't know his name. The A. G. Brown is a prize boat; was captured some months ago by the U. S. forces in Pearl River, and now belongs to the Q. M. department. The boat is under Capt. Bradshaw's orders, post quartermaster at Brashear City. Left Huff's Island on Tuesday, and went to Weeks Island, in Vermillion Bay, where some molasses was taken on board; three of the armed rebels going round on the boat to Weeks Island, and returned with the boat to Huff's Island. There were some three hundred barrels of molasses and about two hundred hhds. of sugar taken on at the landings; kept no memorandum of the account; am only able to guess at it. With the barge loaded with sugar in tow, the A. G. Brown finally left Huff's Island, and proceeded on to Brashear. When going through
51 Morrison's Cut-off, we saw the U. S. gunboat Wyanza, outside of Barrel Stake light-house. The white flag which had been flying up to this time was soon pulled down, and the U. S. flag was run up. The A. G. Brown kept on her course to the mouth of the river; the gunboat Wyanza then altered her course and steered for the A. G. Brown. The A. G. Brown was hailed and the captain of the Wyanza came on board of the Brown. I was at the wheel as pilot at the time. Capt. Washburne, I am told, asked for the papers of the steamer, and I know he put a prize master on board. I understood that Capt. Washburne, of the Wyanza, asked for papers and was referred by Captain Hardenbrook to Mr. McLeod, a sugar speculator on board. Capt. Washburne said the papers were not satisfactory. In charge of the prize master the captured steamer proceeded to Brashear. When we arrived at Brashear the cargo was put under charge of marines, and was subsequently coopered up and sent to New Orleans. The next morning Col. Jones, 25th corps d'Afrique, commanding post at Brashear, asked me about the particulars of the trip, and I told him frankly and honestly all I knew. Col. Jones thereat appeared very angry, (Col. Jones is a loyal man, he is a native of Mississippi, and was hunted out of Texas by bloodhounds,)
52 and threatened to put all parties concerned under arrest. Capt. Bradshaw, U. S. Q. M., who happened to be passing at the time, was spoken to about the matter by Col. Jones, I being present. Bradshaw turned away from Jones, remarking that Capt. Evans was in charge of the boat, and then said to me "that he would put me out of the way where I wouldn't talk so much." I asked him what he meant by such a remark, and he replied, "never mind." I spoke to him again about his apparent threat: I told him that I had been guilty of nothing that required me to keep my mouth shut.

He told me "if I did not like it he didn't care." I did not know what Capt. Bradshaw meant, whether it was a threat at my life, or a threat that he would discharge me from the quartermaster's department.

HENRY HULL,
Pilot of the steamer A. G. Brown.

Sworn to and signed before me this 27th day of April, 1864. New Orleans, La.

T. B. THORPE, *U. S. Prize Commissioner.*

53 District court of the United States, eastern district of Louisiana.

In the matter of 84 hhds. of sugar, in prize.

Julius F. Beyer, prizemaster of 84 hhds. of sugar, detached from the U. S. str. Wyanza, of which Capt. Washburne is commander, being duly sworn, deposes and says that on the 23d of April there was captured on board of the A. G. Brown, in front of Brashear City, Louisiana, eighty-four hhds. of sugar; said sugar was seized because brought within the federal lines in an unlawful manner, and for violating the rules of the blockade at present established by the United States; and said Julius F. Beyer deposes and says that no papers were captured with the said property.

JULIUS F. BEYER,
Act'g Ensign, U. S. Navy.

Sworn to and subscribed before me this 28th day of April, 1864. N. O., La.

T. B. THORPE, *U. S. Prize Commissioner.*

54 District court of the United States, eastern district of Louisiana.

In the matter of 84 hhds. of sugar, in prize.

Deposition of Henry Hull, pilot of the steamer A. G. Brown, a witness produced, sworn, and examined in preparatorio on the 28th of April, 1864, at the office of the prize commissioners of the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Julius F. Beyer, acting ensign, U. S. N., in behalf of the captors of a lot of sugar and molasses.

That I left Brashear City on board of the steamer A. G. Brown, on the 22d of April, 1864, about half past ten o'clock p. m., after the arrival of an extra train over the Opelousas railroad, which brought Chas. Goodwin to Brashear, who took passage on the A. G. Brown. There were fifty soldiers with some artillery, the infantry belonged to the 131st N. Y. vols, the whole military force under command of Capt. Evans, of the 91st N. Y. V. I
55 accompanied the expedition as pilot. After leaving Brashear the steamer proceeded to John Glenn's plantation, on Grand River, about 65 miles from Brashear. After the steamer left Brashear I saw on board Mr. Thorn, a sugar and cotton speculator. Mr. Thorn was arrested some time previously for running the blockade. Capt. Evans was present at the time of the arrest. After the arrest Thorn was sent to New Orleans, and his goods were kept in the provost marshal's office in Brashear. Don't know how he got released from arrest. The next time I saw him was at Brashear, where he seemed to be attending to his business as if nothing had happened. The day before the A. G. Brown started on the trip to John Glenn's plantation, (trip of the 22d of April,) I asked Mr. Thorn if the A. G. Brown was going after his, Thorn's, sugar, and Thorn replied, "No, I have sold the sugar to Mr. Goodwin." After the A. G. Brown arrived at Glenn's plantation Mr. Thorn left the steamer in a small boat, and landed on the other side of the river, and I have not seen him since. Thorn remained on the A.

G. Brown hidden away, and I believe no one saw him on the boat until it arrived at John Glenn's plant'n. On the return trip from John Glenn's plant'n I asked Capt. Washburne, of the U. S. gunboat Wyanza, if
56 Thorn had any pass to go on the A. G. Brown, and Washburne said that the provost marshal at Brashear said that Thorn had no pass. This is the reason why he hid himself away on the trip, I suppose. At John Glenn's plantation the sugar, 84 hhds., was taken on board of the A. G. Brown without any trouble. On this trip I saw several flat-boats returning from the park or Indian village; the persons on the flat-boats stated that they were engaged in taking cotton up to the park, and that they were going back. The insides of the boats were stuck all over with small bits of cotton, showing that they had been loaded with such an article. Three or four hours were consumed in loading the A. G. Brown with the 84 hhds. of sugar; it was put on board under the charge of the mate of the A. G. Brown. Mr. Goodwin, present, counting the hhds. as they were put on board. He, Goodwin, remarked in my presence "that all the sugar was not there." The steamer being loaded, about half past twelve o'clock p. m. on Saturday the 23d of April, 1864, she started back for Brashear, and arrived there about half past seven o'clock same day. About two miles from Brashear City I asked Capt. Hardenbrook, of the A. G. Brown, if I should signal to the gunboats that we were coming. Capt. Hardenbrook replied, "No; don't
57 blow a whistle or ring a bell, run by without letting the gunboats know anything about it." I replied that I thought the gunboats would fire into us if I did not make some signal. Hardenbrook replied, "he did not think they would." I blew no whistle, nor did I ring any bell, but proceeded past the gunboats lying in front of the town, up to the landing of Brashear. I saw Capt. Washburne, of the U. S. str. Wyanza, going ashore from his boat, so that he was on the landing when the A. G. Brown touched the shore, and Capt. Washburne was the first man on the A. G. Brown after the boat touched the landing, at least I believe he was the first man that came on board. I was in the pilot-house and could not see with certainty. After the boat landed I went below and met Capt. Washburne of the U. S. gunboat Wyanza; he asked me where Goodwin was, and I told him that I did not know, but that I thought he had gone ashore. Washburne replied that he did not think that Goodwin had gone ashore. Capt. Washburne then went ashore, and I immediately followed him; and some time after I returned to the boat to go to bed. When I went to my room I saw Mr. Goodwin in my room. I told him I was surprised to see him
58 there, and asked what he was doing. He replied, keep quiet and say nothing about it, that he wanted to see them seize his sugar. I left the room to see Capt. Washburne, to report the fact to him, but Washburne was ashore. Mr. Goodwin was in my room without my knowledge or consent. A short time after, when I returned to my room, Mr. Goodwin was gone. In the mean time a company of marines from the U. S. gunboat Glyde, under charge of Captain Pickett, and a prize crew, took charge of the sugar. The soldiers had orders to allow no one to remove the sugar from the A. G. Brown; the marines staid on the shore to see that the sugar was not removed and spirited away. I saw the sugar subsequently rolled ashore under charge of the prize crew.

I am twenty-four years old, a native of the State of Maine; have a family, a wife and one child, living in New Orleans. Owe allegiance to the United States; have been, and am now, in the employ of the U. S. Q. Master's department at Brashear, under command of A. M Bradshaw, asst. qu'r
59 m'r, stationed at Brashear. The A G. Brown belongs to the quartermaster's department at Brashear; she was a boat that was captured from the rebels by the military forces some time ago, and has since been in

the employ of the the U. S. quartermaster's department at Brashear. She, the A. G. Brown, has also been in the employ of Col. Halobird, chief quartermaster at New Orleans.

HENRY HULL,
Pilot of Steamer A. G. Brown.

Sworn to and signed before me this the 28th day of April, 1864. New Orleans, La.

T. B. THORPE, *U. S. Prize Commissioner.*

District court of the United States, eastern district of Louisiana.

In the matter of 84 hhds. of sugar, in prize.

Deposition of James Mann, mate on the A. G. Brown, a witness produced, sworn, and examined in preparatorio on the third day of May, 1864, at the ffice of the prize commissioners of the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq.. U. S. district attorney, in behalf of the captors of a certain lot of sugar and molasses.

60 That on the 22nd day of April, 1864, or thereabouts, the steamer A. G. Brown, belonging to the U. S. Q. M. department at Brashear City, commanded by Jas. Hardenbrook, with Capt. Evans, 91st N. Y., and two other officers, with two companies of infantry and two pieces of artillery, the whole expedition after we left Brashear City under the direct charge of Capt. Evans, left Brashear and proceeded up to Grand Lake, Lake Chicot, Bayou Chene, into Grand River, and up to Bute la Rose and, after some hunting found on the shore of Grand River, three or four miles below Bute la Rose, the eighty-four hhds. of sugar seized. This sugar was hauled from somewhere in the interior, as there were no signs of a plantation in sight. On board of the boat was a man by the name of Goodwin, who represented himself as owner the sugar; know nothing about this man Goodwin. I superintended the loading of the sugar as mate of the steamer. While the sugar was being put on board the steamer Capt. Evans ordered pickets out on the shore to prevent surprise; the artillery was loaded and ready for immediate action. No attack from the anticipated enemy was made, and after

61 two hours' work the pickets were called in and the steamer proceeded back to Brashear, which place it reached on the night of the 23rd of April, 1864, at 8 o'clock p. m. Immediately after the steamer landed at Brashear Capt. Washburne, of the U. S. gunboat Wyanza, came on board, and I understood he made the seizure. A day or two afterwards this sugar was sent to New Orleans by the Opelousas railroad; it had previously been unloaded from the U. S. transport A. G. Brown by negroes employed in the quartermaster's department. After the sugar was put in the railroad depot a prize crew of marines took charge of the sugar. The A. G. Brown had the U. S. flag flying all day of the 23rd of April, 1864.

JAMES MANN.

Sworn to and signed before me this the 3rd day of May, 1864. New Orleans, La.

T. B. THORPE, *U. S. Prize Commissioner.*

62 *Supplemental claim and affidavit of Charles A. Weed, filed May, 12th* 1864.

United States district court, eastern district of Louisiana.

THE UNITED STATES
vers.
104 HHDS. AND 36 BARRELS OF SUGAR AND 237 BBLS. OF MOLASSES, also 186 hhds. sugar and 103 bbls. molasses.

To the Honorable Edward H. Durell, judge of the United States district court for the eastern district of Louisiana:

And now comes Charles A. Weed, a loyal citizen of the United States, domiciled in said State of Louisiana, and for answer to the supplemental libel of information of Rufus Waples, esq., attorney &c., claims of the sugar and molasses in the above-entitled libel named, (206) two hundred and six hhds. of sugar, (36) thirty-six barrels of sugar, and (335) three hundred and thirty-five barrels of molasses, as of his sole property, and states that he is the sole owner thereof. And he denies that said sugar or said molasses, claimed by him at any time was, or now is, rightfully subject to capture, or was or is lawful prize, or should be condemned or forfeited, or that
63 the same ever became or now is liable to condemnation or forfeiture.

And he annexes to this his claim his affidavit, setting forth the grounds upon which his claim rests.

Wherefore the said Charles A. Weed prays that he may have a decree adjudging said sugar and said molasses as above claimed to him, together with the costs and damages which he has sustained by reason of the seizure and detention of the same.

C. A. WEED.

SULLIVAN, BILLINGS & HUGHES,
Proctors for claimant.

Sworn to and signed before me this 12th day of May, 1864.
K. LOEW, *D'y Clk.*

Affidavit.

United States district court, eastern district of Louisiana.

THE UNITED STATES
vers.
104 HHDS. AND 36 BBLS. OF SUGAR AND 237 BARRELS OF molasses, also 186 hhds. of sugar and 103 barrels of molasses.

64 STATE OF LOUISIANA, *Parish of Orleans, ss:*

Personally appeared before me this 12th day of May, 1864, Charles A. Weed, who, being duly sworn, did depose and say as follows:

That he is the claimant named in the foregoing claim, and that said claim is just and true, and that he is able to establish the same; that he resides in said parish, and is and ever has been a good and loyal citizen of the United States. That on the 15th day of October, 1863, a license was duly obtained by and issued to this deponent from the supervising special agent of the fifth special agency, to purchase within thirty days five hundred hogsheads of sugar and one thousand barrels of molasses, in the parish of St. Mary's, in said State of Louisiana, and to transport the same to the city of New Orleans. That under and in strict accordance with said license, this deponent did, through his agent, D. Mc Leod, on the 20th day of October, 1863,

purchase said sugar and said molasses from loyal citizens of the
65 United States at Franklin, (which place was then within our military lines,) and within said thirty days transported the same to Cote Blanche, within said parish of St. Mary's, that place being also within our military national lines and being on the best routes to the city of New Orleans. That on the 26th day of March, 1864, a second license was duly obtained by and issued to this deponent from said special agent, for the transportation of two hundred hhds. of sugar and three hundred barrels of molasses from said Cote Blanche, where the sugar and molasses purchased under the license first mentioned were then stored, to the city of New Orleans. That under and in strict accordance with said last-mentioned license, this deponent, through his said agent, hired a transport belonging to the government of the United States, and, with the full approbation of the quartermaster of this department, sent the said transport to said Cote Blanche and loaded the sugar and molasses so purchased as above, and herein libelled, on board the said transport, and shipped the same to said city of New Orleans, by way of Brashear City. That during the passage of said transport
66 so laden with the property herein libelled said property was, on the 15th day of April, 1864, seized by the United States gunboat Wyanza. This deponent further says that throughout all of the times herein before mentioned the said parish of St. Mary's and the country in which all of said places and routes were situated maintained a loyal adhesion to the Union and the constitution, and was occupied and controlled by forces of the United States, so far as it was occupied or controlled the forces of the United States or the Confederate States of America. That the political branch of the government of the United States, namely the President in conjunction with Congress, acting directly and mediately through such organs as they had lawfully established, had by repeated acts recognized said parish of St. Mary, and the entire region through which said property had passed and was to pass on its way to said city of New Orleans, as being no longer in a state of insurrection against the United States. That on the 22nd of September, 1863, the President of the United States issued a proclamation, wherein he declared that on the 1st day of January, 1864, he would by proclamation designate the States and parts of States, if
67 any, in which the people thereof, respectively, should then be in rebellion against the United States. That on the 1st day of January, 1864, in accordance with such former proclamation, the President did by proclamation designate among the parts of States not in rebellion against the United States the said parish of St. Mary's and the entire region through which said property had passed and was to pass on its way to said city of New Orleans. That the Secretary of the Treasury, under and in pursuance of the acts of Congress, and with the sanction of the President, did, on the 11th day of September, 1863, promulgate certain regulations, in the (10th) tenth of which regulations he authorized the supervising special agents to designate portions of territory in their respective agencies, within the lines of national military occupation, as trade or as supply districts. That in pursuance of said regulations, the supervising special agent of the fifth special agency did, on the 16th day of December, 1863, designate the entire parish of St. Mary's and the whole region of country through which said property had passed and was to pass on its way to said city of New Orleans as supply districts; that such designation so made by said
68 supervising special agent is unrevoked and still in force. That on the 11th day of January, 1864, Major General Banks, commanding this department, in pursuance of the authority by the President in him vested, through a proclamation addressed to the people of the said State of Louisiana, invited the citizens of said State to assemble on the 22nd day of

February, 1864, to cast their votes for the officers of said State, and on the first Monday of April, 1864, to cast their votes for delegates to a State convention to revise the constitution of said State of Louisiana; that by a subsequent proclamation the said General Banks, under authority given to him by the President, designated the places at which said votes should be cast for such officers and delegates, and that he designated the places in said parish of St. Mary where the people should assemble and cast their votes for such officers and a delegate. That on said 22nd day of February, 1864, and on said first Monday of April, 1864, the citizens of said parish did, in large numbers, and at the place and in the manner designated by such proclamations, assemble and cast their votes for such State officers and
69 for a delegate for such convention. That said convention is now in session in the city of New Orleans, and that one of its sitting and actual members elected in pursuance of said proclamations is Charles Smith, esq., elected in and for said parish of St. Mary. That the officers for said State have all of them been recognized by the President as being duly elected by a loyal community. That all said proclamations, elections, and proceedings have had and have the direct and explicit sanction of the President, and that by virtue of his proclamation, and the acts done by him, and under his direction, and with his sanction, the inhabitants of said parish of St. Mary and of the entire region through which said property had passed and was to pass on its way to said city of New Orleans have been recognized as being no longer in a state of insurrection against the United States, and the purchase and transportation of said property so made and undertaken by this deponent as herein set forth have been authorized and rendered lawful.

C. A. WEED.

70 Sworn to and subscribed before me this 12th day of May, 1864.
K. LOEW, *D'y Clk.*

Claim and affidavit of F. Blydenburgh, filed May 24th, 1864.

United States district court, eastern district of Louisiana.

THE UNITED STATES
vs.
104 HHDS. AND 36 BBLS. OF SUGAR, AND 237 BBLS. MOLASSES; also 186 hhds. of sugar and 103 bbls. of molasses.

To the Honorable Edward H. Durell, judge of the United States district court for the eastern district of Louisiana:

And now comes F. Blydenburgh, a loyal citizen of the United States, domiciled in said State of Louisiana, in said eastern district thereof, and for answer to the supplementary libel of information of Rufus Waples, attorney, &c., claims of the sugar and molasses in the above-entitled libel named, eighty-four (84) hogsheads of sugar, as of his sole property, and states that he is the sole owner thereof; and he denies that said sugar claimed
71 by him at any time was, or now is, rightfully subject to capture, or was or is lawful prize, or should be condemned or forfeited, or that the same ever became or now is liable to condemnation or forfeiture; and he annexes to this his claim his affidavit, setting forth the grounds upon which his claim rests. Wherefore the said F. Blydenburg prays that he may have a decree adjudging said sugars as above claimed to him, together with the cost and damages which he has sustained by reason of the seizure and detention of the same.

SULLIVAN, BILLINGS & HUGHES,
Proctors for claimant.

Affidavit.

STATE OF LOUISIANA, *Parish of Orleans, ss:*

F. Blydenburgh, being duly sworn, deposes and says that he is the claimant named in the foregoing claim, and that the same is true, and that
72 he will, as he verily believes, be enabled to establish the same; that, being the lawful owner of the eighty-four hogsheads of sugar named and claimed by him in his foregoing claim and answer, and having duly obtained a license from the special agent of the fifth special agency, which license was in full force and operation, and authorized this deponent to transport said sugar from the parish of St. Martin, in said State of Louisiana, this deponent proceeded to hire, and did hire and engage of the quartermaster of this department, a United States transport, to transport the same from said parish of St. Martin to the city of New Orleans, and after said sugar was loaded on board said transport, (the same belonging to the government of the United States,) and during its passage thereon from said parish of St. Martin to said city, said sugar was unlawfully seized by the naval authorities of the United States; that at the time of said transportation said parish of St. Martin and the territory through which said sugar had been, was being, and was to be brought on its way to said city of New Orleans, were maintaining a loyal adhesion to the Union and the constitution, and
73 were controlled by the forces of the United States; that prior to the time of such transportation the President of the United States had, by his official acts as President, recognized the State of Louisiana as being no longer as a State in insurrection against the United States, and that such recognition remained unrevoked, and that the political condition of said State of Louisiana then was that of a loyal State, in which was established a State government friendly to the government of the United States.

F. BLYDENBURGH.

Sworn to and subscribed before me this 24th day of May, A. D. 1864.

K. LOEW, *D'y Clk.*

74 *Bond for costs, filed May 24th, 1864.*

UNITED STATES OF AMERICA,
Eastern district of Louisiana, to wit:

Personally appearing before me, the undersigned, United States commissioner for the eastern district of Louisiana aforesaid, F. Blydenburgh, as principal, and A. C. Graham, as surety, do hereby acknowledge themselves jointly and severally to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements, for the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators, firmly by these presents.

Whereas, in the matter of the United States *vrs.* 104 hhds. and 36 bbls. of sugar, and 237 barrels of molasses, &c., No. 7863 of the docket of the district court of the United States for the eastern district of Louisiana, a claim has been filed on behalf of F. Blydenburgh. This obligation to be null and void on condition that the said principal and surety shall abide by
75 the final decree rendered in the cause, and pay all such costs, expenses, and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise, this obligation to remain in full force and virtue.

F. BLYDENBURGH. [SEAL.]
A. C. GRAHAM. [SEAL.]

Signed and sealed at the city of New Orleans, this 24th day of May, 1864, in presence of—

K. LOEW, *Clerk to U. S. Com'r for the East'n Dist. of La*

Order to open sealed papers.—From minutes of May 24th.

UNITED STATES
vrs.
104 HHDS. SUGAR, &c. } No. 7863.

On motion of the district attorney, ordered that the sealed papers on file be opened.

76 *Order to pay Wm. St. John, from minutes of June 6th.*

UNITED STATES
vrs.
104 HHDS. SUGAR, &c. } No. 7863.

On motion of the district attorney, ordered that the marshal do pay Wm St. John the sum of $25 witness' fee, already taxed in this case.

Order fixing cause for trial.—From minutes of June 7th.

UNITED STATES
vrs.
104 HHDS. OF SUGAR, &c. } No. 7863.

On motion of the district attorney, ordered that this cause be assigned for hearing on Friday, 10th inst., at 10 a. m., and that the claimants be notified thereof.

77 *Notice of trial, issued June 7th, 1864.*

United States district court, eastern district of Louisiana.

UNITED STATES
vrs.
104 HHDS. SUGAR, &c. } No. 7863.

To Sullivan, Billings & Hughes, esqs.:

You are hereby notified that the above cause has been assigned for trial on Friday, 10th inst., at 10 a. m.

By order of court.

N. O., June 7th, 1864.

[SEAL.] K. LOEW, *D'y Clk.*

Marshal's return.

Received June 7th, 1864, and on the 8th day of June, 1864, served a copy of the within notice of trial on A. de B. Hughes, esq., personally.

N. O., June 8th, 1864.

M. EGAN, *D'y U. S. Marshal.*

78 *Hearing and continuance.—From minutes of June 10th.*

UNITED STATES
vrs.
104 HHDS. AND 36 BBLS. SUGAR, &c. } No. 7863.

This cause came up for trial, district attorney for libellant, Sullivan, Billings & Hughes for claimants, when, after hearing pleadings, evidence, and argument in part, the cause is continued till to-morrow, 11th inst., at 10 a. m.

Note of evidence, filed June 10th, 1864.

UNITED STATES
vrs.
104 HHDS. SUGAR, &c. } No. 7863.

The court overrules the motion by the district attorney to strike so much from the affidavit as may be considered an answer.

The district attorney offered in evidence the admiralty warrant,
79 monition, and marshal's return, and the testimony taken before the prize commissioner.

Mr Billings, one of the proctors for claimants, argues that this is not a prize case; that the interrogatories have not been answered *seriatim*; that two different seizures were made at two different dates, and cannot be united in one libel; that the persons found on the captured vessel have not been examined.

District attorney replies, and the cause is continued to the 11th inst., at 10 a. m.

Hearing and submission.—From minutes of June 11th.

UNITED STATES
vrs.
104 HHDS. SUGAR, &c. } No. 7863.

This cause came up pursuant to adjournment, and after hearing argument the court took the matter under advisement.

80 *Note of evidence, filed June 11th, 1864.*

UNITED STATES
vrs.
104 HHDS. OF SUGAR, &c. } No. 7863.

Counsel for claimants submit their exception to the libel, and moves:

1st. That the libel be dismissed, or that the cause be transferred to the instance side of the court.

2d. That the order allowing the testimony of the witnesses to be taken by the captors be rescinded, and that the testimony of the witnesses be stricken from the record.

The court thereupon took the matter under advisement.

81 *Prize list of captors, filed June 15th, 1864.*

[In triplicate.]

List of persons attached to the U. S. steamer Wyanza, claiming to be entitled to prize money accruing from the capture of 206 hhds. of sugar, 36 barrels of sugar, and 335 barrels of molasses:

No.	Name.	Rank.	Am't to be credited.
10	S. B. Washburne	A V. lieut.	
1	H. S. Gregory	A. A. paymaster.	
13	W. H. Wentworth	A. A. surgeon	
11	Julius F. Beyer	Act. ensign	
2	James Wilson	" "	
14	John H. Mullen	Act. M. mate	
3	William Doyle	Act. 1st asst. eng.	
16	Columbus C. Carlisle	" 2d " "	
15	Bernard Martin	" 2d " "	
5	Cyrus Campbell	" 3d " "	

No.	Name.	Rank.	Am't to be credited.
12	B. P. Stanley	Paym'r's clerk	
37	Thos. J. Murphy	Yeoman	
40	David Hern	Ship's corporal	
69	Cyrille Vizind	Sug'n's steward	
38	Wm. Willoughby	Bo's mate	
34	John Curran	Qr. gunner	
39	Dennis Herlasky	Carp'r's mate	
49	W. G. H. Ashkin	Coxswain	
48	W. C. McLacklain	Qr. master	
28	S. Thomas	Officers' steward	
25	W. H. Collins	Officers' cook	
26	James Faley	Ship's cook	
23	Edw'd Webster	Seaman	
24	Michael Sweeney	Ord'y seaman	
27	Peter Formey	" "	
36	James Curry	Seaman	
41	Edwin F. Kensie	"	
43	John Schow	"	
32	Tho's McGuire	Ord'y seaman	
31	Alex. Vandergrift	Landsman	
35	Michael Dorgan	"	
42	Richard McCance	"	
51	John Brannon	"	
52	James Dunn	"	
53	Chas. Russell	"	
54	Alex'r McGee	"	
55	Edmond Robinson	"	
56	Charles King	"	
57	Thos. Jefferson	"	
58	Wm. Sullivan	"	
59	George Dodd	"	
60	Thomas Rudd	"	
61	John Johnson	"	
62	Joseph Scott	"	
63	Theophile Bossick	"	
68	Horace Davidson	"	
70	Abraham Wilkins	"	
71	Wm. Williams	"	
33	Bernard Ryan	1st-class boy	
45	Josiah Proctor	"	
44	David Henry	"	
65	Oscar Castin	"	
47	D. H. Hendrickson	1st-class fireman	
30	Reuben G. Watson	2d-class fireman	
46	Emory D. Williams	" " "	
50	Daniel Jones	" " "	
66	John Page	" " "	
64	Thomas Darcy	" " "	
29	Jas. J. McHenry	Coal-heaver	

This certifies that the above-named claimants have produced satisfactory evidence that they are the identical persons who were attached to the U. S. steamer "Wyanza" at the date of the capture of 335 bbls. of molasses and 206 hogsheads and 36 bbls. of sugar.

H. S. GREGORY, *A. A. Paymaster.*

Approved.

S. B. WASHBURNE,
A. V. Lieut., Comd'g.

84 *Order for further proof.—From minutes of July 2d.*

UNITED STATES
vrs.
104 HHDS. AND 36 BBLS. SUGAR, &c. } No. 7863.

For the reasons now orally assigned by the court, it is ordered that the libellants as well as the claimants be permitted to furnish further proof in this case, and that leave be granted to the claimants to bond the libelled property, if they think proper so to do.

Order appointing appraisers.—From minutes of July 7th.

UNITED STATES
vs.
104 HHDS. OF SUGAR, &c. } No. 7863.

On motion of Sullivan, Billings & Hughes, esqs., proctors for claimants, in the presence of the district attorney, ordered that in conformity with
85 Rule 10th of the Practice of United States Courts of Admiralty and Maritime Jurisdiction, H. G. Heartt and Richard Swain be appointed appraisers to value the property libelled herein, and that it be delivered to the claimants upon giving bond in a sum exceeding by one half the appraised value thereof, with good and solvent security, conditioned as the law directs.

Notice to appraisers, issued July 7th, 1864.

United States district court, eastern district of Louisiana.

UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR, AND 237 BBLS. MOLASSES; also 186 hhds. sugar and 103 bbls. molasses.

To H. G. Heartt and Richard Swain:

Take notice that you have been this day appointed appraisers for the purpose of ascertaining the value of the property libelled in this case, and you are to file the report of your appraisement within the shortest possible
86 delay.

By order of court.

(Signed) K. LOEW, *D'y Cl'k.* [SEAL.]

New Orleans, July 7th, 1864.

Marshal's return.

Received July 7th, 1864, and on the same day served a copy of the within notice on Richard Swain personally, and at the office of H. G. Heartt in the hands of his clerk.

M. EGAN, *D'y U. S. Marshal.*

N. O., July 7th, 1864.

Appraisement.—Appraisers' report, filed July 9th, 1864.

NEW ORLEANS, *July 8th*, 1864.

SIR: We, the undersigned, duly appointed appraisers, have examined the sugar and molasses in Algiers, in the Opelousas R R. warehouse, claimed by C. A. Weed, and are of opinion that the actual market or wholesale prices of the said sugar and molasses is this day, 12 m., and we do therefore appraise the same as follows, viz: D. M. 206 hhds. of sugar, commercial average 1,150 lbs. per hhd., (not having weighed the sugar.) We find
87 upon a careful examination of it that the quality runs very irregular, part of the sugar being dry, part sugar-bottoms, or been overboard in the river, being quite wet and grainless; the hhds. from long drain are about one fourth to one third empty. We average them 777 lbs. per hhd.

206 hhds. of 777 lbs., 160,062 lbs., at 20 cts	$32, 012 40
Which, according to quality, would bring in market this price. (Samples at appraisers' office for inspection.)	
D. M. 36 bbls. sugar, same quality, same sugar, barrels would average them 26 bbls.—210 lbs. each nett—7,560 lbs., at 21 cts.	1, 587 60
330 barrels of molasses we found, instead of 240, as order calls for, to be crop of 1861, dark and sour; 330 bbls., average 37 gallons each, is 12,210 gallons, at 65 cts	7, 936 50
It would suit distilleries—not bear reboiling.	
	41, 536 50

H. G. HEARTT,
RICH'D SWAIN, *Appraisers.*

88 *Appraisement.—Appraisers' report, filed July 9th*, 1864.

N. O., *July 8th*, 1864.

SIR: We, the undersigned, duly appointed appraisers, have examined the sugar and molasses in Opelousas R. R. warehouse, Algiers, claimed by F. Blydenburgh, and are of opinion that the actual market value or wholesale prices of the said sugar is, and we do therefore appraise the same, as follows, viz: G. 84 hhds. sugar. We found it very dark colored and damp, although drained; the hhds. were not full, and at commercial average 1,150 lbs. per hhd., not having been weighed. We can safely put them down at one fourth to one third out; say 777 lbs. each.

84 hhds., 777 lbs. = 65, 268 lbs., at 20 cts. per lb., $13,053 60, which, considering the condition of the sugar, is a fair average price this day in the market. Samples at our office.

H. G. HEARTT,
RICH'D SWAIN, *Appraisers.*

89 *Appraisers' bill, filed July 9th*, 1864.

IN THE MATTER OF THE UNITED STATES
vers.
C. A. WEED, 290 hhds. and 36 bbls. sugar, and 330 bbls. molasses.

To Heartt & Swain, Dr.

July 8, 1864.	For appraisement of 290 hhds. sugar, 36 bbls. sugar, and 330 bbls. molasses, $39,131 50, at ½ per cent	$195 66
	For labor assorting, sampling, &c., 290 hhds. sugar, at 15 cents	43 50

July 8, 1864.	For labor, bung-starting, assorting, sampling, &c., 330 bbls. molasses, at 10 cents	$34 00
	For ½ mileage, ferriage, &c., to Algiers	2 50
		275 66

Appraisers' bill, filed July 9th, 1864.

UNITED STATES
vers.
84 HHDS. SUGAR, CLAIMED BY F. BLYDENBURGH.

To Heartt & Swain, Dr.

July 8, 1864.	For appraisement 84 hhds. sugar, $13,053 60, at ½ per cent	$65 26
	For labor, boring, assorting, at 15 cents each	12 60
90	For ½ mileage and ferriage to Algiers	2 50
		80 36

Received payment.

Testimony on order for further proof, filed July 9th, 1864.

United States district court, eastern district of Louisiana.

In the matter of 104 hhds. of sugar, &c.

Deposition of Robert Hare, a witness produced, sworn, and examined in *preparatorio* on the ninth day of July, 1864, at the office of T. B. Thorpe, U. S. prize commissioner, the said witness having been produced for the purpose of such examination in behalf of claimants of certain sugar and molasses.

I reside in the city of New Orleans. I was acquainted with the situation of the parish of St. Mary's in the latter part of October, and the whole of the month of November. I was in the parish of St. Mary on the 24th
91 and 25th, or somewhere in that neighborhood. During the latter part of October the parish was occupied by the Federal forces. There was a military post at Franklin, Col. Landrum in command; Col. Landrum was post commander. Gen'l Franklin had passed through the Teche country, from Brashear City, and to some point beyond Cote Blanche towards New Iberia, on the prairies. I heard of no rebel forces between Vermillion and Cote Blanche Bay and the Teche. There were no rebel forces in that region; it was supposed to be occupied by Federal troops. I know T. D. Hine, of the parish of St. Mary's. I know Marcus Walker, of the same parish. These men were loyal citizens; had taken the oath, I believe, when Gen'l Banks first went into that country.

(Counsel for libellants object to testimony regarding the oaths, because they are not produced in writing, and that it is hearsay.)

These men were transacting their daily business within the Federal lines. I collected a draft which paid for a part of these sugars and molasses.

(Counsel for libellant objects to testimony, on the ground that the draft is not produced.)

The draft was drawn on C. A. Weed & Co. I placed the proceeds
92 to the credit of Marcus Walker—one portion; the other portion to the credit of T. D. Hine. This must have been some time in January

when the collection of the draft took place. I was doing business at this time in the city of New Orleans. I was not present when the draft was given, and of course I do not know the purpose for which it was given. I was formerly a commission merchant, but have little business to do now. I never had any interest in this sugar and molasses. I have never been connected with Mr. Weed in any business transaction. I only saw a portion of Gen'l Franklin's forces. This was in the months of November and December, and the latter part of October. I saw these forces at Franklin and New Iberia, and occasionally met portions of the army passing to and fro I never saw Gen'l Franklin's forces pass Vermillion. I know there were no rebel forces in the country, from the fact that I never saw any, nor ever heard of any. This includes the time from the latter part of October up to January. I was constantly moving up and down between New Iberia and Franklin, and in that time I shipped out about 1,000 hhds. of sugar. I
93 know nothing about Mr. Hine or Mr. Walker taking the oath except what they said. I saw them in the provost marshal's office getting passes. I cannot tell the time, but I saw them in the provost marshal's office a hundred times. I travelled about the country with them in several instances.

ROB'T HARE.

Sworn to and signed before me this 9th day of July, 1864.

T. B. THORPE, *U. S. Prize Commissioner.*

Henry E. Lawrence, produced, sworn, and examined on the 9th day of July, 1864, says:

I have resided in New Orleans constantly since the 15th of January, 1864. I considered myself a citizen of St. Mary's Parish up to about the middle of January, 1864. From about the 10th of October to about the middle of the same month, or the 20th, I was staying at and about my plantation near Berwick's Bay, and witnessed a large portion of Gen'l Franklin's forces crossing Berwick's Bay into the parish of St. Mary. After the army had
94 all passed up, I took passage in the steamboat from Berwick's Bay to New Iberia, stopping at the town of Franklin on my way, where I saw encamped quite a large force of Federal troops. Arriving in New Iberia I found it garrisoned by a large number of Federal troops under the command of Gen'l Niles. I remained there, making it my headquarters, meantime travelling to Franklin and New Iberia up to the 25th of December, or thereabout, during which time I never saw a rebel soldier, except he were a prisoner, and taken as such through the Federal lines. I know that forage teams and large escorts of cavalry and infantry were almost daily making expeditions into the country, getting provender, provisions, &c. I think about the middle of November, Burbridge, or some other Federal officer, relieved Niles. The distance from Cote Blanche to Franklin is about twelve miles by the road, I think, and I think about half the distance in a direct line. Weeks Island is a little further from Franklin, and a little nearer New Iberia. I heard of no rebel pickets or forces between New Iberia and Franklin from the time I left Berwick's Bay to the 1st of November, nor did
95 I see any except they were brought in as prisoners. I should not have hesitated on the 30th of October, 1863, to have gone to Cote Blanche or Weeks Island. I know T. D. Hine and Marcus Walker very well indeed; both are of the parish of St. Mary, of the town of Franklin. I know that Mr. Hine visited New Orleans during the fall of 1863. After our army took possession of the country. Mr. Hine's and Mr. Walker's associations were with Union men. The residents of St. Mary's Parish are, with very few exceptions, Union men; at least, this is true of the vicinity of

Franklin. I know nothing regarding the purchase of the sugar by Mr Weed; know nothing personally. My residence (plantation) that was in St. Mary's was about twenty-three or twenty-four miles from Franklin. On the 20th of October, 1863, I was at the town of Brashear. Brashear is about 25 miles from the town of Franklin. I am not certain that I saw Mr. Hine in New Orleans or Berwick's Bay in the fall of 1863. The Federal forces left Franklin in the latter part of March or the 1st of April, 1864. Marcus Walker is a merchant in the town of Franklin. Mr. Hine is also a
96 merchant; he resides in Franklin, and does business in Centreville. They are not sugar planters to my knowledge. I do not know where this sugar or molasses was raised. I do not know from whose plantation it was brought. I have taken the oath of allegiance; took it in May, 1863, in the town of Franklin. I have taken it several times since, to enable me to get passes, &c.

H. E. LAWRENCE.

Sworn to and signed before me this 9th day of July, 1864.
New Orleans, La.

T. B. THORPE, *U. S. Prize Commissioner.*

Bond for release of sugar claimed by Charles A. Weed, filed July 12th, 1864.

97 UNITED STATES OF AMERICA,
Eastern district of Louisiana:

Know all men by these presents that we, Charles A. Weed, by J. H. McKee, his agent and attorney in fact, claimant and owner of a part of the property libelled herein, as principal, and David McLeod and James E. Zunts as sureties, are held and firmly bound unto the United States of America, libellant, in the sum of sixty-thousand dollars, ($60,000,) lawful money of the United States of America, for the payment whereof to the said United States, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals, hereunto affixed by us at New Orleans, this 12th day of July, one thousand eight hundred and sixty-four.

Whereas an admiralty warrant was lately issued out of the honorable the district court of the United States of America for the eastern district of Louisiana, at the suit of the United States *vs.* 104 hhds. and 36 bbls. sugar, &c., &c., her tackle, apparel, and furniture, and numbered 7863 on the docket of the said court, commanding the marshal to seize and take into his possession the said sugar and the said molasses, which has been seized accordingly, but of which 206 hhds. sugar marked D. M., 36 bbls sugar D. M., and 330 barrels of molasses, have been released from said seizure, and delivered to Charles A. Weed, the claimant and owner thereof, by reason of the signing, sealing, and delivery of these presents, said Charles A. Weed having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now, the condition of the above obligation is such that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise, shall remain in full force and virtue.

CHARLES A. WEED,
By J. H. McKEE, *Att'y.* [SEAL.]
DAVID McLEOD. [SEAL.]
JAMES E. ZUNTS. [SEAL.]

Signed, sealed, and delivered in the presence of—
K. LOEW, *D'y Clk.*

98 David McLeod, surety on the within bond, being sworn, says he resides in the parish of Lafourche, State of Louisiana, and is worth the amount of the bond over and above all his liabilities.

DAVID McLEOD.

Sworn to and subscribed before me this 12th July, 1864.

K. LOEW, *D'y Clk*

James E. Zunts, sworn, says he resides in the parish of Plaquemine, and is worth the amount of the within bond over and above all his liabilities.

JAMES E. ZUNTS.

Sworn to and subscribed before me this 12th July, 1864.

K. LOEW, *D'y Clk.*

I accept Mr. Zunts and Mr. McLeod as sureties.

RUFUS WAPLES, *U. S. Dist. Att'y.*

99 UNITED STATES DISTRICT COURT,
Eastern district of Louisiana, ss:

CLERK'S OFFICE, *New Orleans, July 12th*, 1864.

UNITED STATES
vs.
104 HHDS. AND 36 BBLS. SUGAR, &C., &C. } No. 7863.

The President of the United States of America to the marshal of the eastern district of Louisiana, or his lawful deputy, greeting:

Whereas Charles A. Weed, of New Orleans, La., claimant of part of said property, hath filed a claim thereto on behalf of himself, consisting of 206 hhds. of sugar, marked D. M., 36 bbls. of sugar, marked D. M, and 330 bbls. of molasses, (as per appraisement on file,) and which said claim is now of record in this office, and obtained leave of court to bond the same, you are hereby authorized to release the said sugar and molasses from seizure, and them to restore to the possession and custody of said claimant, he having given bond conditioned as required by said order of court, and otherwise complying with the rules of the court, &c., and make return hereon of your doings in the premises.

Witness the Hon. Edward H. Durell, judge of said court, at New Orleans, [SEAL.] this 12th day of July, A. D. 1864, and the 88th year of the independence of the United States.

K. LOEW, *D'y Clk.*

100 Received, July 12th, 1864, and the same day gave to Sullivan, Billings & Hughes, proctors for the claimant named within, an order on G. O. Bearse, agent of the Opelousas R. R. Co. for the property named within, said Bearse having it in charge for safe-keeping under my authority.

JAS. GRAHAM, *U. S. Marshal.*

101 *Rule by district attorney.—Hearing and continuance, from minutes of July 14th*, 1864.

THE UNITED STATES
vers.
104 HHDS. SUGAR AND 36 BBLS. SUGAR, &C. } No. 7863.

On motion of Rufus Waples, U. S. att'y, and on suggesting that the or-

der granted in this case, allowing the claimants to bond the property captured and libelled as prize, was granted *ex parte;* that the said order was granted in error, as the law does not authorize the bonding of prizes previous to judgment, and not until judgment, in favor of claimants, and on appeal therefrom by libellants; that the said attorney verily believes that the property libelled would be transported beyond the jurisdiction of this court, if delivered to claimants before judgment, thus rendering it impracticable thereafter to proceed against it as forfeited for violation of revenue laws, and thus defeating the government in its right to resort to all remedies lawfully within its reach—

It is ordered that the claimants be cited to show cause on Monday, 18th inst, at 10 a. m., why the said order should not be cancelled and an-
102 nulled for the reasons above set forth.

And it is further ordered that the marshal be, and he is hereby, instructed not to release and deliver said property during the pendency of this rule, and that he be notified accordingly.

And the legal delay being waived, the rule was taken up by consent of counsel. Present: Rufus Waples, district attorney; Sullivan, Billings & Hughes by E. C. Billings, esq, for claimants.

When, after hearing argument in part, the rule was continued till tomorrow, 18th instant, at 10 o'clock a. m.

Testimony taken before clerk, filed July 14th, 1864.

UNITED STATES
vers.
104 HHDS. SUGAR, &C. } No. 7863.

Testimony taken in presence of district attorney, and Sullivan, Billings & Hughes, esq.

103 James Hardenbrook, sworn for libellants, says: I was captain of the United States transport A. G. Brown, on the expedition to Cote Blanche Bay, Huff's Island, and Weeks Island. We had two guns belonging to Captain Evans's department. He brought the two guns on board. I do not know the number of the soldiers on board. There were on board negro soldiers: I know not how many. The guns and soldiers were put on board at Brashear City. This was in April last—about the beginning of the month, the fore part of the month. The A. G. Brown on her arrival at Cote Blanche anchored at about ¼ or ½ of a mile; I cannot say whether it was more or less. We let go the anchor in six feet water. After we let go the anchor a yawl was sent ashore. I cannot say how long it was after the yawl was sent ashore that a flag of truce was raised; it might be half an hour—it might be an hour. I cannot say exactly how long it was.

Capt. Evans was ordered by Mr. Carlins to raise the flag of truce. Capt. Evans was on shore at that time; he went ashore with me in the yawl, or rather I went ashore with him. Capt. Evans and myself did not re-
104 main together all the time on shore; we had been all the while on shore together until the flag of truce was raised.

I did not notice that Captain Evans went anywhere before the flag of truce was raised. I was not constantly with Capt. Evans. I went in a sugar-shed near by to see how the sugar looked. Mrs. Huff's residence is about a quarter of a mile or half a mile from the landing.

I do not know what reasons Carlins assigned for raising the flag of truce. I saw men there. I know not whether they were scouts, guerrillas, Confederates, or citizens. I asked no questions. Carlins was armed with a pistol; I saw him with no other weapon. He was on foot when I saw him. There were horses with saddles there; the horses there were with saddles and bridles.

I know not if the men were citizens or soldiers. The persons I saw there, with the exception of Carlins, were not armed. I cannot say whether the saddles were such as the cavalry used; I did not take particular notice, as I had other business to attend to. I cannot say if Capt Evans went to Mrs. Huff's before the flag of truce was raised. I saw Bailey Vincent on the wharf. I was told a person I saw there was Bailey Vincent; he
105 was pointed out to me by a boy, a striker engineer, who had been raised with him in the same settlement; so the boy told me. After I had landed the barge at the wharf I saw Bailey Vincent. When I had landed the barge at the wharf I took the steamer to her anchorage again. I cannot say how long after I landed I first saw Bailey Vincent. Mr. Carlins was backwards and forwards from the shore. I know not where he went; I paid no attention to his movements. I do not know how many persons I had seen previous to Carlins ordering Capt. Evans to raise the flag of truce. At a landing it would be difficult for me to say how many persons come and go away when a boat lays there. We laid there five days, I think; I am not certain.

Bailey Vincent was not there when the flag of truce was raised; he was not, to my knowledge, on the wharf. He might have been there and I not know him. He was there, I think, while the flag of truce was up. I do not know if Capt Evans went on the hill to meet any persons. I think no negro soldiers landed there. Two negro soldiers went in the yawl with Capt. Evans and myself, but I cannot say whether or not they went ashore. I think they did not.

106 The white troops went ashore. I cannot say why the negro troops did not go on shore, as well as the white troops. I heard Mrs. Huff say that she preferred the negro troops should not come ashore, for fear it would create more trouble. She had seen much trouble already; that the other boat, the J. M. Brown, had been there before, and shelled the place. I cannot say under what authority Carlins acted when he ordered Capt. Evans to raise the flag of truce. I paid no attention to it; it was no business of mine.

The flag of truce was raised as ordered. No sugar was put on board before the flag was raised. The negro soldiers were on the lower decks, all over below, and on the barge. They had their bayonets with them. As far as I recollect the guns were on board. All the while we were loading, the flag of truce remained up. I saw nothing that led me to suppose that the persons I saw there were other than citizens. Carlins had a pistol, took it out, and demanded how we landed there, and whether we had landed with a flag of truce. I cannot say exactly whether he said flag of truce or not. I cannot remember.

Question by dist. att'y. Do you believe that Carlins was a private citizen?

Answer. I cannot say.

107 Question. Would a private citizen demand and order a flag of truce to be raised on an armed United States transport?

Answer I am not well enough versed in war to answer the question.

Question. Do you know by whose authority Carlins acted?

Answer. I only know by hearsay. I heard it said that he was under Vincent's command. When the Brown got through with the sugar she went to Weeks Island. She took in some molasses; a flag of truce was raised on board of her there also; it was kept up all the while. I did not see Bailey Vincent there. I saw there the same persons I had seen at Mrs. Huff's Island, the same citizens; they helped us to cooper the molasses. I know not what they were, whether citizens or solders; they were not armed. The flag of truce was up all the time we remained at Weeks Island. Mr. Carlins went with us on the boat from Mrs. Huff's landing to Weeks Island. I can -

not recollect how long we remained at Weeks Island; we got there in the evening; I think we laid there two nights. Some people came on board both at Huff's Island and at Weeks Island. I do not know whether
108 or not any other U. S. troops were at Huff's Island or Weeks Island, with the exception of those on board of the Brown. I saw no other at the time mentioned. The white troops went ashore at Weeks Island, but without arms; I mean without their guns. No pickets were put out at either place that I know of. I do not know the distance from Brashear City to Weeks Island and Huff's Island; I was told it was about thirty-odd miles. I think we left Carlins at Huff's Island on our return from Weeks Island. We had left our barge there at Huff's Island; we took her in tow on our return.

(Counsel for claimants reserving all legal exceptions, except to the authority of the clerk to take the testimony, proceeded to cross-examine the witness.)

I cannot tell whether Carlins was drunk or sober when we landed at Huff's Island. I think St. John was tight at one time when we were there. I know the old man was tight. He was put under arrest when he was in liquor; I did not see the arrest; I was not on board at the time. He told me so himself, that he was under arrest when I came on board.

Re-examined by district attorney.

109 I cannot say how long he was kept under arrest. He told me he had been put under arrest for some rough language to Capt. Evans. He said they accused him of using rough language.

Question by district attorney. What conversation had you with Captain Washburne when the sugar was seized?

(Objected to by counsel for claimants.)

Answer. He said to me that the people who had got the sugar had no papers to get it. I cannot repeat his exact words, but the above is the meaning of what he said. I do not know what was the object of sending troops with the Brown for the sugar. I suppose the purpose was to guard the boat.

JAMES HARDENBROOK.

Sworn to and subscribed before me this 14th July, 1864.

CHAS. CLAIBORNE, *Clerk U. S. D. C.*

H. Humphreys, sworn for claimants, says I reside in the parish of Lafourche; I am a Union man. (Deponent produces his oath of allegiance,
110 which is inspected by the district attorney; said oath is dated 24th November, 1862.) I went from the city of New Orleans to New Iberia, in April, 1864. I left N. O. on the 9th of April, and arrived in the parish of St. Martin on the 13th of April, 1864. St. Martin, I think, is in the parish of New Iberia, but won't be sure. I had my pass to go there from Major Porter. I left the city on the 9th and was gone for 10 or 11 days. I was at New Iberia and vicinity some 4 days, in the parish of St. Martin. During the time I went to New Iberia and returned to N. O., say some 10 or 11 days, I did not see any rebel forces or soldiers at all.

Cross-examined.

I was not near Brashear City about the 15th April, 1864. I was not at Huff's or Weeks Islands at these times. I do not know where Huff's or Weeks Islands are, except from the map. I never was at those islands. I was not at Brashear City between the 1st and 15th April, 1864.

H. HUMHPREYS.

Sworn to and subscribed before me this 14th July, 1864.

K. LOEW, *D'y Clk.*

111 *Testimony taken before clerk, filed July 15th, 1864.*

UNITED STATES *vers.* 104 HHDS. SUGAR, &c. } No. 7863.

Testimony taken in presence of district attorney and E. E. Billings, esq.

Captain A. M. Bradshaw, sworn for claimants, says: I was post quartermaster at Brashear in April last. I know Henry Hull, pilot on the A. G. Brown. I never used the language towards Hull stated in the testimony of the latter. I never told him I would put him out of the way, where he would not talk so much, nor words to that effect. During the month of April I despatched the A. G. Brown to Cote Blanche, under orders of Col. Holabird. I had the authority of Col. Day, the commander of the district of Lafourche, that there were no enemies there, and I knew of none there at all. It was my business to know. I had charge of the boats, and had there been
112 any danger, they would not have been permitted to go out.

(Libellants objects to what Col. Day told witness.)

I had a conference with Col. Day in regard to the boat's going to Cote Blanche. I had charge and the direction of the A. G. Brown, when she went to Bute la Rose for sugar. I understood there were no enemies, and heard of none whilst the boat was passing through that region. From the information I had, I learned there were no enemies on that route to Bute la Rose, and there. Previous to the time I speak of, April, 1864, Gen'l Franklin had moved his forces up from Franklin to New Iberia, and further. An election for delegates to the convention for revising the constitution took place in the parish of St. Mary in February last.

Cross-examined.

Brashear City is about 25 miles from Huff's Island, I think, by land. I think the distance between Huff's and Weeks islands is 7 or 8 miles. The distance between Brashear City and Huff's Island by water is some 60 or 70 miles, I think. There were U. S. troops at Berwick's Bay, just across the bay, when the A. G. Brown went to Huff's Island, and it would be
113 about the same as regards Weeks Island. I think Col. Norton was commander at Berwick's Bay, but am not positive. Don't know whether he belonged to Franklin's command at that time or not. I don't know whether at Huff's Island or Weeks Island there were any U. S. troops stationed when the A. G. Brown landed there. I applied to Col. Day for a guard to go on the Brown. Had there been troops at Weeks and Huff's Islands, I would, notwithstanding, have asked for a guard on the boat. I received information from a detective in the employ of the United States, that there was no rebel soldiers at Huff's Island or neighborhood. Although I was stationed at Brashear City as quartermaster, I do not know whether the United States had any forces stationed at Huff's or Weeks Islands when the Brown went there, but I think we had none there. I had my order from Col. Holabird in writing. I was authorized to send the boat after the freight; this is as far as I can give the substance of the order. I will produce the order if I can. One gun was put aboard the A. G. Brown
114 by the officer who had furnished the guard; the other gun was there already. Col. Day furnished the guard. The witness corrects his evidence, and says it was Col. Jones that furnished the guard. Upon reflection he says he is not positive, but it was either Col. Jones or Col. Day.

I have taken at times 50, 75, and 100 men for a guard. This depended upon how we could spare the troops. I did not go up to Bute la Rose on the A. G. Brown. I know nothing of my own knowledge whether any rebels were there or not, neither as to Huff or Weeks Islands. I had not the least idea of any guerrillas or rebel soldiers being at that place. The sky might fall to-morrow and I might not know it.

Being asked, might not there have been any rebels there without your knowing it? says:

Yes; there might. But there was no rebels there. I speak from my own information only, not from personal knowledge. General Franklin was beyond me, and he may have sent from time to time forces out without my knowledge. Huff's and Weeks Islands are not within my jurisdiction as quartermaster. My jurisdiction does not extend beyond Brashear City. I did not have any communication with the U. S. forces at Weeks and Huff's
115 Islands at the time the A. G. Brown went there. Three thousand dollars was paid for the use of the A. G. Brown to me. The money was used for government purposes. General Reynolds knows all about the disposition of the money. I did not pay the money to Col. Holabird.

Being asked, to whom did you pay the money? says:

I paid and disbursed expenses of my office. Paid employees, and other government and quartermaster's expenses, and accounted for the money in my account to the government.

Being asked to name some of the persons to whom he paid the money, says: (Counsel for claimant objects to the question.)

This money was mingled with money belonging to the United States in my possession, and accounted for to the government. I paid all of my employees out of the money. I had some 50 employees, at times I have 150. I don't know how General Reynolds came to inquire about the matter. Don't know that any investigation was had on the subject. I don't know whether the collector of internal revenue collects the dues at Weeks and Huff's Islands. Never had any direct intercourse with Weeks or Huff's Islands. Hull was saying that I was standing on the upper deck by the pilot-
116 house, and that the weather was so rough that the water wetted him, or words to that effect, and I supposed he was jesting; but he insisted, and stated it was a fact, and I said it was a falsehood. I believe I used the word falsehood. I did not tell him to hush up. Hull is not in my department now. I discharged him for allowing a man to go outside the lines without a pass. I dismissed him dishonorably. It is not necessary for me to prefer charges against a man in my employ. I don't think Hull did right on the occasion above referred to. Hull was not in the army, he was in the U. S. quartermaster's employ; he went on the A. G. Brown as pilot, and had been a pilot for a long time. The cannon on the A. G. Brown were 12-p'drs, I think. I can't remember the number of negro troops on troops on board the Brown; they had been used for guards. I know nothing about the orders of the Secretary of the Navy and Treasury, but I know something about the orders from the War Department. I have seen order 88 from the War Department. Can't say whether I saw it previous to last April.

ALBERT M. BRADSHAW,
Capt. and A. Q. M.

117 *Testimony taken before U. S. prize commissioner, and filed July 15th, 1864.*

District court of the United States, eastern district of Louisiana.

In the matter of 104 hhds. of sugar, &c., in prize.

[Counsel for libellants reserves all legal exceptions to this testimony.]

Deposition of W. L. Evans, captain 91st N. Y. heavy artillery, a witness produced, sworn, and examined, on the eleventh day of July, 1864, at the office of T. B. Thorpe, U. S. prize commissioner, the said witness having been produced for such examination by and in behalf of claimants.

I was assigned by Gen'l Banks for especial duty, to report to Col. W. W. Day, who ordered me to take charge of any forces that went out on any of the transports at that time at Brashear City; and also to act as a general scout. I was stationed at Brashear City. I was especially ordered to act on the U. S. transport steamer A. G. Brown by Col. Day. There was a force detailed on the A. G. Brown. There were two pieces of artillery, and five or six artillerists, and one company of negro soldiers, under command
118 of a captain and 1st lieutenant. On or about the 6th of April, 1864, the A. G. Brown, with the military forces alluded to, proceeded to Huff's Island, Cote Blanche Bay. I arrived there the next day after the boat started. When we got within a half mile of the shore we came to shallow water, which kept the boat from running into the dock. I had the boat anchored about a half mile from the shore. I was on the hurricane-deck, and saw some one on shore wave a white cloth or handkerchief. Mr. Hull, the second pilot of the A. G. Brown, was standing beside me at the time; he asked me if he could wave one in reply, I told him he could, and he did so. I saw two or three persons on the shore, and one person in a small boat near the shore. I beckoned for this boat to come out, and the party in it came out on the A. G. Brown. I asked him who those parties were ashore, and he told me they were citizens living about there. (All hearsay testimony objected to.)

The person from the shore remained on the transport, and I took the yawl-boat belonging to the steamer and went on shore. There I met a man by the name of Collins, dressed in citizen's dress. He asked me what we had come for. I replied we came for sugar. This man Collins was drunk
119 at the time, and asked me if there was a bar on the boat. I told him there was, and gave the man permission to go on board to get a drink, which I presume he did. In the mean time I sent on the transport orders to have the dock repaired, and commenced rolling the sugar on board. The negroes came ashore from the transport in a barge which had been fastened to the steamer, and commenced repairing the dock. While this was being done I visited a house in the neighborhood, where I saw a lady and some small children, whose husband had been conscripted and was then in the rebel army. This family was preparing to go away, as the lady understood the island would be shelled. Meantime a little boy of Mrs. Huff, a widow lady, asked me if it would be safe for his mother to remain on the island, as she was very much alarmed at the appearance of an armed transport in these waters. This fear grew out of the fact that the island had been shelled several times by the Federals without any apparent cause. I answered the boy that I had come on a peaceful errand; and to prove it I sent orders on board the transport to raise a flag of truce, which was done, as a guarantee to the people living on the island that I had not come there to make war on women and children.

120 About this time I was told that there were parties on the hill about a mile off, near the sugar-house, who desired to see me. There was a saddle-horse near by, which I took and rode up to the sugar-house. There

I met three men, one of whom, in spite of denial, I believe was Bailey Vincent; another one gave his name as James Carlin. I allowed the three men to come down to the dock; two of them had revolvers. I asked them why they wore revolvers. They said it was necessary to protect themselves from the jayhawkers in the neighborhood, and that they had always worn them from boyhood up. When they got to the dock they asked permission to go on board of the boat to get a drink, which favor I denied them. They appeared to be quiet and peaceable citizens, and I sent on board and got them each a drink, which they took and then went away. This was the only time the man I took to be Bailey Vincent was ever in my sight. The transport remained in the vicinity three or four days getting the sugar on board. The barge was left at Huff's Island, and the transport proceeded to Weeks Island. The barge (loaded) had been hauled out about half a mile and anchored: left in charge of the mate and two or three hands. At Weeks Island some molasses was taken on board; when that was done the
121 transport returned to Huff's Island, took the barge in tow and started for Brashear City. A man by the name of St. John had charge of the contraband laborers. The first day we landed at Weeks Island he got drunk, became very abusive, and called me a son of a b—h, and other abusive epithets. When I went aboard the transport that evening I found him asleep and dead drunk. I placed him under arrest by putting a guard over him. On the next morning he came to my state-room, which was the same room occupied by the clerk of the boat, and asked me why he had been placed under arrest. I told him it was for being drunk on duty, neglecting his duty, and for saying that I was a son of a b—h. He said that the day before he was drunk, and did not know what he was saying; he could not make himself believe that he had called me a son of a b—h, because he had a great regard for me, and asked me to release him from arrest, saying that he would not get drunk any more. I refused to release him, and said when I returned to Brashear City I would prefer charges against him. He came to me three or four times and begged very hard, for God's sake, for me to let him off. I told that he was an old man, old enough to be my
122 father, and that I would not punish him if he would promise not to get drunk any more, which he did; whereupon I released him from arrest. At Weeks Island I went out fully three miles on land to the sugar-house; saw two or three men coopering; same men I saw at Huff's Island. Everything was quiet. I went to the extremity of Huff's Island on horseback, distance about four miles, and saw no one except negroes hauling sugar. Mr. Carlin came to the boat the second day after the transport arrived at Huff's Island, and asked if he could get a drink, I replied, yes. I subsequently saw him on the transport, and he told me that he was from St. Louis, and that he had an interest in a plantation near Franklin, and was then in the vicinity attending to his business; he appeared to be a quiet citizen. He stated he had a brother in the Union army, who had been killed at Fredericksburgh. While at Huff's Island there was a pic-nic, with some fifty or sixty ladies present. One man asked me to let him have a passage to Brashear, which I denied. I saw Mr. Weeks and lady there in their carriage. I never heard at the time of any Confederate forces or soldiers being in the vicinity of any of these places, and heard of none nearer than
123 Alexandria. These men whom I have spoken of seemed to be citizens and had their carts and mules hauling sugar and molasses. I saw some of them paid for hauling. Mr. Carlin seemed to have nothing to do with the hauling; he appeared to be on the boat merely for the pleasure of the company; he seemed to like Union people. I do not know where the parishes of St. Mary's and St. Martin's, but so far as Franklin is concerned. I know of parties who came from Pattersonville to purchase supplies, and I

know of persons passing from Franklin to Brashear City, without molestation. I know that these parties were Union parties. I know that some of these parties have since been arrested by the Confederates, after our defeat on Red River, for their Union sentiments. I have been scouting within the last ten months at least one hundred miles north of Brashear City, Grand Lake, Chicot, Maringue, La., Romp, Grand River, and Atchafalaya. I have been up so many times that I can pilot a boat through any of them. In the whole ten months, in the region alluded to, I never saw a Confederate shot fired, or never saw any Confederate force in that region. I always looked upon it as neutral ground; no party occupied it. I made a special
124 report of this Cote Blanche expedition to Col. Day, which was forwarded to Gen'l Reynolds, commanding the defences of New Orleans. I gave no especial orders to the military to keep an especial look out for the advance of the Confederate forces, it is the duty of the military at all times to keep a look out. I had a guard over the arms on deck. I threw out no pickets; I did not deem it necessary as my boat was about a thousand yards from the shore. There were no indications of a hostile force that made a picket necessary.

Question. Did a man by the name of Collins, so far as you know, claim to be the Confederate commander of the post?

Answer. Not so far as I know, nor did any one else.

(Objected to as leading.)

I was not aware that there was any Confederate post until I came back here, or until I learned it from this testimony here.

Q. Did you at any time order your men out of sight?

(Objected to as leading.)

A. I did not; but I ordered them to remain on the boat, unless they had especial permission to go on shore. I saw no money except what was paid to the parties hauling the sugar. Mr. Collins asked me what I came
125 for, and I told him that I came for some sugar on the island. He asked me if there was a bar on the boat. I told him there was, and I gave him permission to go on the boat and get a drink. I was perfectly indifferent about being halted, for I had force enough to protect myself against any contingency. I was halted by no one; no one claimed to ask me by what authority I was there. I made no such statement as represented by Hull in his testimony, as to what took place between me and Collins.

Cross-examination.

I did not get any order to go after this sugar from Gen'l Banks. I was assigned by special order No. 49, head qrs. dep't of the gulf, to report to Col. Day for special duty. I was ordered by Col. Day in writing to go after this sugar in Cote Blanche Bay. I have not that order of Col. Day. I stated yesterday that I had mislaid it. I may possibly find it among my papers. The substance of the order was this, that I should go on board of the U. S. transport A. G. Brown and take command of the military force on board, and proceed to Cote Blanche Bay, and bring on board sugar and molasses, and to return as soon as possible to Brashear City. Col. Day, at this time,
126 was at Thibadaux, commanding the district. I don't know who hired the A. G. Brown on this expedition. I do not know how much was paid the government for the use of her. There were never more than three persons at a time from the shore on the A. G. Brown, and not more than six in all. These persons asked permission of me before they came on board. One of these visitors desired a passage to Brashear City, which I denied him. I don't allow any one to come on board of my boat or go ashore with-

out permission, when I am out on an expedition. I had two serviceable guns on the A. G Brown. I did not fire these guns while on the expedition. I discharged them on my way back, in the lower part of the Atchafalaya, about twenty miles below Brashear. I was at Cote Blanche three days or thereabouts. No one was with me when I went up on the hill, and met the man I supposed to be Bailey Vincent. Vincent asked me if there were any objections to his coming down to the wharf. I said there were none. After he came to the wharf he asked to go aboard and get a drink; this privilege I denied him, but sent aboard and got some liquor and took a drink all around. I refused him the privilege of going aboard the A. G. Brown,
127 because I believed he was Bailey Vincent, although he denied his being such a person. I made this refusal because I understood he was a dangerous person when intoxicated, and not because I considered or thought him to be a Confederate officer. If I had thought him to have been a Confederate officer I should have arrested him; but I knew him from some time previous to be an out-law with the Confederate government. There were two men beside Vincent when I met him on the hill. I met these men about one mile from the shore. Some of the parties who were hauling down the sugar told me there were men on the hill who desired to see me, and I took a horse standing near by saddled, and rode up to see them. The two men who were with Vincent were armed with revolvers. I had my side-arms on when I rode up. I could have arrested Vincent and the two men with him if I had desired to do so. I don't say that I could have done this alone on the hill, nor do I say I could not. There were no other persons on the boat except the fatigue party, the military force, and the hands of the boat. The fatigue party was composed of negroes under the charge of St. John.
128 The pilot and captain directed me where to land the boat. I don't know which; I had never been there before. There was no one on the boat who had any interest in the sugar that I know of. A Mr. McLeod was on the boat who seemed to have the control of it, seemed to be there to look after it. Mr. McLeod was on shore while the sugar was being rolled on the barge. I don't know that the landing was designated by Mr. McLeod. I did not hear Mr. McLeod say that he had any interest in the sugar. I never saw before this trip. The parties from the shore were on the A. G. Brown when the freight was being taken on board. I don't know who were rebels or Union men. Carlin, I believe, was a Union man. I raised the flag of truce some time after I landed. The fatigue party was at work on the shore when I raised the flag of truce; had been at work an hour and a half or two hours. Some of the party from the shore remained on the boat half of the time. Carlin remained half the time or thereabouts; the others not so long. Collins and Carlin, to best of my knowledge, only remained any length of time on the boat; the others came and took a drink and went away. They were
129 engaged in superintending the hauling of the sugar, or were personally engaged in hauling.

The name of the captain of the A. G. Brown was Hardenbrook; he has resigned since the expedition. He resigned, he informed me, because his wages had been lowered from $150 per month to $125 He gave me no reason why the parties from the shore came and left the boat. There was a barrel of flour landed from the boat for Mrs. Huff. The captain asked me if I had any objection to it. There was no objection. I believe that he had a right under the orders to do so, what they drew for rations to exchange for beef or other articles for the table. Neither of the islands visited in this expedition were shelled by me. The capture of the A. G. Brown was made by the U. S. S. Nyanza, Capt. Washburne, who, coming up from the Gulf, overtook us, and came on board and had some conversation with Mr. McLeod and the captain of the boat. I do not know what the conversation was. He

had no conversation with me, except that as he was coming down stairs Washburne said, "I shall send an officer on this boat; it is a prize; her
130 papers are not right." I replied that I had no objection to his sending an officer on board; that he might ride up in the boat, and that I was in charge of the boat until it was turned over to the proper authorities at Brashear City; then he, Washburne, might do what he pleased with it. An officer from the gunboat came on board of the A. G. Brown, who continued on the boat till it reached Brashear City. I placed, meantime, a guard over the boat and sugar, until I reported to the quartermaster; I was then released from all responsibility. I believe that the guard I posted was released by the depot guard. I saw that guard in charge of the cargo and boat next morning. I had no orders regarding the expedition except those already named, except instructions from the quartermaster that Capt. Hardenbrock, of the A. G. Brown, would take orders from me. This is customary in all expeditions of this kind, for all parties to take orders from the military commander. I don't know that Capt. Washburne examined the papers of the A. G. Brown. I made no objections to the officer of the gunboat coming on board the boat. I took him as a passenger, and as an especial accommodation. I could not have received orders from Capt. Wash-
131 burne, as I was his superior officer. I told Capt. Washburne that I had no objection to his officer riding up to Brashear on my boat. Capt. Washburne had the force, but not the right, to put this officer on board the A. G. Brown. I let him come on board as an act of courtesy. I would not have surrendered the boat on any terms while I had a man left to defend it. Capt. Washburne did not state that he would seize the boat, but that he would seize the sugar, because the papers were not right. To the best of my knowledge the naval officer, when he arrived at Brashear City, left the boat. Capt. Washburne did not ask my permission to send this officer on my boat. I have already related, as far as I can recollect, all the conversation I had with Capt Washburne at the time. The officer placed on the A. G. Brown did not ask my permission to come on board. I asked him up into the cabin to take a drink. Nobody comes on board of my boat without I see fit to let him come, without my permission. I am not in the habit of letting parties come on my boat without previously getting my permission. Capt. Washburne's statement that he would put an officer on the boat was not an order. All parties do not use the same language when they ask permission to come on my boat. No orders were given me by Capt.
132 Washburne with regard to this officer coming on board of my boat. Capt. Washburne stated that the sugar was a prize, not the boat. When Capt. Washburne came alongside the A. G. Brown the steamer was moving. I think the A. G. Brown must have stopped when the gunboat came up, but I am not positive. I don't think the naval officer could have come on board while the steamer was moving, but I am not positive about this matter. The gunboat was against the barge, which was fastened to one side of the A. G Brown. Capt. Washburne gave the signal that is usual for one boat to communicate with another. I don't know that we paid any attention to the signal or not; it is the pilot's business to attend to signals. It was not necessary for the A. G. Brown to stop, for the gunboat was running two miles to my one. At all events, the two boats communicated after the signal was given by Washburne. When we first saw the gunboat she was not less than five miles off, both vessels at the same time coming to the same point. I did not attend the picnic at Huff's Ldg; I had other duties to attend to. The naval officer came on board of the A. G. Brown in
133 the middle of April last. He never asked me a word about the papers of the A. G. Brown. He said nothing to me about the seizure; he was very quiet. Don't know where the sugar was originally brought

from. Those parties I saw on the hill were on horseback. I saw no persons that I have not mentioned while at Huff Island. I took command of the expedition on the 5th or 6th of April; I cannot say which. The A. G. Brown got 80 or 85 hhds. of sugar somewhere about Grand Lake, after this expedition. I have heard part of their testimony relating to the case; that part which relates to Hull and St. John. Mr. Billings read all to me that related to me. I do not know that the capt. of the A. G. Brown had any permits; I did not ask him, and he did not tell me. I raised the flag of truce by my own sense of propriety. I did not think it an act of prudence, but an act of justice to the people on the island. It was for their fear and not for mine that I raised it. I hauled down the flag soon after my return to Brashear.

Re-examined in chief.

The object of discharging the two guns was not to take them in port loaded. This is the usual practice on their transports. These two
134 guns were covered at Huff's Island to keep the sparks from the ammunition. There were no vent-covers to these guns. There was no appearance of military organization among the men at Huff's Island.

W. L. EVANS.

Sworn to and signed before me this 12th day of June, A. D. 1864.

T. B. THORPE,
U. S. Prize Commissioner.

Dominick Pochelu, being sworn and examined for claimants, says:

I have been employed and am now in the employ of the department, and have been since December last, and was on the A. G. Brown as clerk at the time she made her trip to Huff's Island in April last. On the boat's arrival at Cote Blanche I saw six men. I saw at first three, and three came down afterwards. I only saw three men at Weeks Island; two of these three I saw at Cote Blanche; the other was Mr. Weeks, the owner of the island Two of the men I saw at Weeks Island were loading the sugar for Mr. Weed.
135 Of the six men I saw at Cote Blanche, two were hauling sugar, and lived back of the island. One was the son of Mrs. Huff; one of the others was Mr. Carline; don't know where he lives. They all seemed to be citizens and not soldiers. I stayed on the island until the boat was loaded. I then went around to Weeks Island. I went to a picnic about seven miles from Huff's Landing, in company with Mr. Moussier and two ladies. I stayed at this picnic all day, and came back to the boat about eight o'clock in the evening. Mr. Moussier is a Union man. I went to the sugar-house at Weeks Island which is about two miles and a half from the landing, and stayed there until all the molasses was delivered. I did not on either of these islands see any Confederate forces or Confederate soldiers.

Cross-examined.

I never was at Huff's Island or Weeks Island before. The picnic was about seven miles from the water, right straight back. Vermillion Bay was about three miles from the picnic, but there is no road from Vermillion Bay to where it was held. When we arrived at Cote Blanche, St. John was intoxicated, and insulted Capt. Evans, and St. John was put under
136 arrest.

I accompanied the A. G. Brown on the expedition up Bute la Rose; this was on the 18th of April, 1864, or thereabout. I went ashore at Bute la Rose. We were there only two hours; never saw any Confederate sol-

diers or Confederate forces while going or returning on the expedition, or while at Bute La Rose.

DOMINICK POCHELU.

Sworn to and signed before me this 12th July, 1864.

T. B. THORPE,
U. S. Prize Commissioner.

David McLeod, being sworn and examined on behalf of in this case, says:

I reside in the parish of Lafourche. The sugar and molasses were purchased in October last, (1863,) of Marcus Walker and T. D. Hine. It was purchased by me for Mr. C. A. Weed. The purchase was made in Franklin. The sugar at that time was represented then to be at Cote Blanche Island,
137 and the molasses there also. The sugar was paid for as follows: I paid six or seven thousand dollars in cash; at the expiration of ninety days the remainder was to be paid. The money paid down was treasury notes. The balance was paid in two drafts, drawn on C. A. Weed. (The exhibits are appended, and make part of this testimony, and identified and marked A and B.) Hine and Walker are residents of Franklin. They are both loyal men; if they had not been so, I would not have purchased of them. I was on board of the A. G. Brown when she went after this sugar. I have heard the testimony of Capt. Evans regarding the number and character of the men at Huff's and Weeks Islands. I know his statements to be correct. After the second day at Huff's Island I got my ankle sprained, and was laid up a couple of days, so that I might not have seen all that occurred on the island. I only observed two men at Huff's Island on the shore. I was not at Weeks Island; Cote Blanche and Huff's Island are the same. One of the men appeared to be agitated a great deal, as if he were alarmed; the
138 other was intoxicated, so that he could hardly sit on his horse. I asked them no questions; they looked like citizens; I knew them to be citizens from their appearance and dress. I was at Huff's Island four or five days; while there, I neither saw nor heard of any Confederate soldiers. Mr. St. John had been ashore and got intoxicated; don't know where he got intoxicated; and returning to the boat he used very harsh language to Capt. Evans, and when I came on the boat I saw St. John lying down, and I understood he was under arrest. I went down on this trip as the agent of Mr. Weed to get this sugar. In the month of February last I went down to Cote Blanche on the steamer J. M Brown, and landed at Huff's dock. The captain and others went ashore and examined this sugar that was in the warehouse, and agreed to haul the vessel in the stream and remain all night, and take in the sugar in the morning. The next morning, whilst making preparations to haul the vessel in to get the sugar, a lieutenant of the guard raised an opera glass, and thought he saw a cavalry force coming over the hill. I looked, but saw nothing. He requested the captain of the boat to back out a sufficient distance; he ordered the shelling of
139 the island, which was done. The boat was then turned about, and left for Brashear City, the excuse being that he had been requested to call at Belle Isle, which he did, and then proceeded to Brashear. I did not see anything coming over the hill. It required a ship glass to see that distance. I thought there might be cows, but I saw nothing myself.

Cross-examined.

I did not go up on the hill with Capt. Evans to see the three men he met. I knew the men at Huff's Island only because their dress indicated them to be citizens. Mr. Carline stated that he had a plantation in the vicinity, and

was looking after his interests in the neighborhood. The sugar obtained in April was the same or a portion of the same lot which was obtained in February last, or rather attempted to be obtained. I am able positively to swear that the persons I saw at Huff's Island were not Confederate soldiers. This positiveness is based upon their appearance and dress. One of them I knew to be a planter. This planter told me that the other two men were his neighbors. I do not know of my own knowledge that any of these men were ever in the Confederate army, or that they were not at some
140 time or another in the Confederate service. The flag of truce was raised some time after we got to Huff's Island. The flag remained up until she left for Weeks Island. I have no interest in the property seized. I got as my commission for purchasing the sugar, seven cents per pound for common sugar, and in proportion for better sugar. I have received my commission of 7 cents for the purchase of the sugar. I was to be paid for the purchase of the sugar on its delivery at Huff's Island. Parties from the shore went on board the boat to my knowledge. I was on the boat when Capt. Washburne came on the A. G. Brown. He, Capt Washburne, asked me if I had the proper permits from the army and navy, and I replied that the sugar belonged to Mr. Weed, and that he had all the papers requisite for the transportation of the sugar. I am not positive as to the stopping of the boats when Capt. Washburne came alongside of the A. G. Brown. Three thousand dollars was paid to the quartermaster, Holabird, for the service of the boat. I made application to Holabird myself for the boat. Holabird referred me to Bradshaw, post quartermaster at Brashear. I paid this three thousand dollars by a draft given to Bradshaw, drawn to
141 the order of Holabird, on C. A. Weed & Co., New Orleans.

I think the A. G Brown had two pieces of artillery on board and forty soldiers and fifty laborers. The A. G. Brown is a government transport. These soldiers and laborers came on board at Brashear City; I don't know of any soldiers being on the Brown before the forty alluded to. The laborers on board of the A. G. Brown belonged to the quartermaster's department. The A. G. Brown, with her artillerists, her infantry, and laborers, was pretty well prepared for any emergency. The A. G. Brown, if going on a peaceful errand, would go prepared just as she was on this occasion. I have seen quartermasters' boats come to Franklin, when our troops were there, armed just the same as the A. G. Brown was on this trip. The A. G. Brown did not leave any troops at Huff's Island. I do not know what these troops were put on the vessel for, except to guard it from danger; no danger was apprehended. I should not like to have gone on this expedition without a guard. I don't know what might occur; I never was on one of them without a guard. It is a natural supposition that a man would be safer with a guard than without one, and the guard could have been used as laborers
142 if necessary. I would have gone without a guard; a guard cost me nothing.

Q. Why would you not have liked to have gone on this expedition without a guard?

A. Because it has not been customary for transports to go on such expeditions without a guard, and the geography of the country I was not particularly acquainted with.

Q. Are you governed in your choice of having a guard when going after property by your own safety and that of your property, or by the custom of the transports?

A. I should be governed by the safety of my property. The soldiers in the boat were completely armed. I felt quite safe on board the boat; I should not have felt as safe without a guard as I did with one. I did not take the question of danger into consideration; I saw nothing to raise my

fears. When the accident happened to my leg I was taken ashore and remained three days in a house with no one present by my servant, the steamer leaving in the mean time and going to Weeks Island with the soldiers. I did not ask the quartermaster at Brashear for a guard; I merely
143 asked him for a boat. When I made application for the boat I knew that the government never sent out a boat without guards. The boat might or might not have been able to transport the sugar without a guard. The guard was not required for the transportrtion of the boat. This guard, as the facts turned out to be, were of no use.

DAVID McLEOD.

Sworn to and signed before me this 12th day of June, A. D. 1864, N. O., La.

T. B. THORPE, *U. S. Prize Commissioner.*

(Attached.)

Exhibit "A," T. B. T., P. C.

Mr. David McLeod bought of Walker & Hine:

119 hhds. of sugar, delivered on Cote Blanche Island, average weights 1,347 lbs. nett, at 5c.	$8,014 65
55 hhds. of sugar delivered on Cote Blanche Island, average weights 1,210 lbs. nett, at 5c.	3,327 50
6 hhds. of sugar delivered on Cote Blanche Island, average weights 1,414 lbs. nett, at 5c.	424 20
1 bbl. of sugar delivered on Cote Blanche Island, average weight 400 lbs. nett, at 5c.	20 00
	11,786 35
Cr.—Oct. 3*th*, by cash on account.	3,000 00
Franklin, 30th Oct., 1863.—By balance due.	8,786 35

Brashear City, Jan. 28th, '64.—Rec'd payment by David McLeod's draft on C. A. Weed, N. O., payable six days after sight.

WALKER & HINE,
Per M. WALKER.

144 *Exhibit "B," T. B. T., P. C.*

David McLeod bought of M. Walker, Oct. 29, 1863:

20 hhds. sugar delivered on Cote Blanche Island, average weights 1,199 lbs. nett, at 5½c.	$1,318 90
90 hhds. sugar delivered on Cote Blanche Island, average weights 1,196 lbs. nett, at 5½c.	5,920 20
2 bbls. sugar delivered on Cote Blanche Island, average weights 400 lbs. nett, at 5½c.	44 00
17 hhds. sugar delivered on Cote Blanche Island, average weights 1,347 lbs. nett, at 5c.	1,144 95
34 bbls. sugar delivered on Cote Blanche Island, weight 12,036 lbs. nett, at 5c.	601 80
22 bbls sugar delivered on Cote Blanche Island, weight 8,140 lbs. nett, at 5c.	407 00
100 bbls. molasses from Boyns, at 4½c.	450 00
200 " " " Weeks, "	900 00
	10,786 85

CR.—By cash on account	$3,000 00
	7,686 85
CR.—By cash on above	4,500 00
Balance due	3,186 85

Brashear City, Jan 28, '64.—Rec'd payment by David McLeod's draft on C. A. Weed, of New Orleans, payable six days after sight.

M. WALKER.

145 *Hearing and order dismissing rule, from minutes of July 15th.*

UNITED STATES vs. 104 HHDS. SUGAR, &C. } No. 7863.

The rule herein continued from yesterday came up again for trial, and after hearing further argument for the reasons orally assigned, it is ordered that the rule be dismissed with costs.

Order to marshal to refund, from minutes of July 15th.

UNITED STATES vs. 104 HHDS. SUGAR, &C. } No. 7863.

On motion of E. C. Billings, esq., proctor for C. A. Weed, claimant, it is ordered by the court that the marshal do refund to said claimant the sum of $691 00 paid by him under protest upon bonding, the same being a charge for freight by the schooner Kate for bringing down the sugar and molasses libelled in this case, and does not form any part of the costs, exigible from the claimant upon bonding.

146 *Marshal's return.*

Received 15th July, 1864, and in obedience to the within order paid to Messrs. Sullivan, Billings & Hughes, claimants' proctors in this case, the sum of six hundred and ninety-one dollars, and took their receipt for the same.

JAS. GRAHAM, *U. S. Marshal.*

Notice to take testimony, issued July 18th, 1864.

UNITED STATES vs. 104 HHDS. SUGAR, &C. } No. 7863.

To Sullivan, Billings & Hughes, esqs.:

You are hereby notified that testimony will be taken in the above-entitled cause on Tuesday, the 19th day of July, 1864, at the clerk's office, at 1 p. m., on behalf of libellant.

[SEAL] K. LOEW, *D'y Clerk.*

N. O., July 18th, 1864.

Marshal's return.

Rec'd July 18th, 1864, 5½ p. m., and on 19th July, 1864, I served a notice

of the within on Messrs. Sullivan, Billings & Hughes, by serving the same on E. C. Billings, esq., in person.

D. CHRISTIE, *D'y. U S. Marshal.*

147 *Testimony before clerk, filed July 19th, 1864.*

UNITED STATES
vs.
104 HHDS. SUGAR, &C., &C. } No. 7863.

Testimony taken in presence of district attorney and E. C. Billings, esq., July 19, 1864.

Capt. Sam'l B. Washburne, sworn for libellant, says:

I command the U. S. str. Nyanza, and the whole fleet in Berwick's Bay. Came there last January, 1864; it might have been in February. I have been down at Weeks Island several times; was there in April last. Weeks Island is distant about 70 miles from the nearest post occupied by the U. S. by water communication. The United States had no troops stationed at Weeks Island in April last.

I considered Weeks Island within the rebel lines in April last, and so in March last; at least there was a lebel force there in March last, and it was reported to me that one of my boats had been fired into by the rebels there. The A. G. Brown went to Weeks Island some 4 or 5 days before she had
148 been captured. Huff's Island was within the rebel lines in April last. Considered Huff's Island within the rebel lines when the A. G. Brown went there. I reported a rebel force there to the commander of the post, Capt. Bradshaw. I don't think there were any Union troops at Huff's Island in April last; never heard there were any there at that time. Berwick's Bay was the nearest post to Huff's Island that was occupied by the U. S. forces. The rebels were in our front at Berwick's City. The A. G. Brown usually carried one gun; sometimes she had none at all. There is none on board of her but one, and I don't think it belongs to her; I don't imagine the government ever furnished her a gun. She had more men on board when I captured her than she ever had before to my knowledge, and that I had seen. I think she had two guns when I siezed her. In my opinion this additional force was placed on her because it was apprehended that there was a rebel force down there. I had a conversation with Capt. Evans, in which he told that his orders were to get the sugar in the easiest way he could, and he thought that the easiest way was to raise a flag of truce.
149 I seized the last lot of sugar, 84 hhds., at about 9 or 10 p. m. The next morning I met Col. Day, who told me I had got ahead of him, that he had given orders to Capt. Evans to seize the sugar, which he would have done had I not seized it the night before. This was the 2d seizure, and these 84 hhds. had come from the neighborhood of Butte la Rose. Don't remember the date, but it was a few days after the 1st seizure. On the night I made the last seizure our force was attacked by the rebels at Berwick's City, one man killed and one wounded. The last seizure was on the 23d, on the same vessel, the A. G. Brown. These 84 hhds. came from within the rebel lines. I had been up there a short time previous to the 2d seizure and found a rebel camp, which I shelled out, burnt their camp, captured their commissary stores and part of their guns. Gen'l Franklin had notified me that they occupied that camp. I shelled them out on 23d March, 1864. The 84 hhds. were on the A. G. Brown when I seized them at Berwick Bay. Capt. Hardenbrook was the commander of the A. G. Brown. Mr. Goodwyn was on the A. G. Brown, and claimed the ownership of the su-
150 gar when I made the seizure. I had a conversation with him before he went up for the sugar. Goodwyn told me that he should not

mind giving me $2,000 if I would let him get the sugar out. I declined this offer. I am not doing any business in that line. I am paid for my services by the government. He told me the sugars were up the Atchafalaya, but did not name the place.

(Libellant offers document X. Objected to by claimant.)

I got this order from Col. Jones, commanding a reg't at Berwick's City, after the army had gone up. Col. Jones was left at Berwick's City with his regiment at the time the A. G. Brown left for Butte la Rose. The nearest post to Butte la Rose occupied by the U. S. forces was Brashear or Berwick's City. At the time the A. G. Brown went to Huff's Island, and Weeks Island and Butte la Rose the United States had no forces there to my knowledge. When the A. G. Brown run from a U. S. post to another U. S. post I never knew her to have any additional complement of men and guns. I have seen her almost every day; when she goes outside of our lines she
151 applies for a guard. Running from one U. S. post to another she has no force but her ordinary crew to work the ship. She had a guard of soldiers both times I seized her. I have been in the navy nearly three years.

Reserving all legal exceptions, counsel for claimant now cross-examines witness.

Cross-examined.

I was the commander of the capturing vessel when both captures were made. My share in the prize-money in this case would be 1-40th.

Being asked how much of your testimony with reference to the situation of Huff's Island and Weeks Islands, in March and April, 1864, is based upon your own sight and hearing, says: Pick out any statement and I shall answer it. I derive my information from people living in that country. I have picked up refugees, and they gave me that information.

Being asked to give the definition about a line of military occupation, says: My definition is, we occupy a position in one place, the rebels occupy another in front of us; the space between would be the line.
152 During the early part of March Gen'l Franklin was in Franklin. In the month of March our lines extended further up. Gen'l Franklin was in New Iberia about 10th March, 1864. [I sent a gunboat up about 19th March, to New Iberia, with a bearer of despatches to Gen'l Franklin. This gunboat was fired into by a force of some 200 rebels. When the gunboat arrived Gen. Franklin had left, as was reported to me.]

What is included between brackets was added by the witness in response to the question, put by the claimants Proctor, "where Gen'l Franklin's division was in the month of March." The counsel for claimants objects to the declaration of the witness, as not being responsive to his question; and the point whether the answer shall remain or be stricken out is reserved, and is left for the court to decide.

Being asked, "Can you give me the position of the forces of Gen'l Franklin, and his outposts and lines during the time he was at New Iberia?" says, "I cannot."

"Can you give me the situation of his outposts and lines during March and April last?" says, "I cannot. The rebels occupied the neighbor-
153 hood of Franklin when we evacuated it. This was on 22d of March. The rebels occupied it the same day we occupied the place.

This answer being objected to by counsel for claimant, the witness said, "I will get that in, as sure as you are born, before I am through."

The objection was not made until after the witness had made the answer.

The witness adds that this is no part of his testimony, and that he was talking to Mr. Kellogg, *sotto voce*.

Being asked, "Have you not in your testimony before the U. S. commissioner stated that Mr. Goodwyn's precise words, when speaking to him about going up for the 84 hhds. of sugar, were as follows: 'I would give $2,000 if you could see me all right, ?'" counsel for the U. S. objects to the question, as having no reference to this case, being in the case of the U. S. *vs.* C. A. Goodwyn, in an examination for attempted bribery.

Answer. It is so long since I have given my testimony in that case that I most forget now what it was. My recollection is, he said that he would not mind giving me $2,000 if I would see him all right. Goodwyn
154 was then waiting for a despatch from somebody here announcing Commodore Palmer's consent to the transaction; this was what Goodwyn told me. He was evidently waiting for something; there is no doubt about it.

Re-examined.

The rear of Gen'l Franklin's army left New Iberia about 20th March. Our forces evacuated Franklin about 22d March last, I am not certain, and the rebels occupied it the same day. I think they were in our front on the night of the 21st March. Col. Jones sent for me and asked for a gunboat to protect him, and stated that he could not hold the place. I went up myself on the Nyanza. I don't know positively about it, but understood there was picket firing all night. I picked up refugees at Cote Blanche Bay that came up in a boat. They said they were conscripting all around there. This was in March, I guess.

S. B. WASHBURNE,
A. V. L, Com'dg.

(Attached.)

Document "X."

OFFICE PRO. MAR. GEN'L, DEP'T OF THE GULF,
New Orleans, April 6th, 1864.

155 Respectfully returned to dep't headquarters, with the report that the evidence herewith submitted shows that the citizens of Centreville were aware of the contemplated raid of the guerillas; that they failed to inform Col. Jones thereof; that the property stolen by guerillas was the property of loyal citizens; that said property was of the value of $1,600; that Col. Jones made an assessment for that amount on the citizens of Centreville, exempting those who had taken the oath of allegiance to the United States; that the money was paid, and is now in the hands of Col. Jones. I further respectfully report that I have recommended Col. Jones to hold the money till he shall receive orders from headquarters dep't as to its disposition.

(Signed) JAMES BOWEN,
B. Gen'l, Pro. Mar. Gen'l Dep't of the Gulf.

HEADQUARTERS DEP'T OF THE GULF,
Grand Ecore, La., April 14, 1864.

Respectfully returned to pro. mar. gen'l. The action of Col. Jones in his assessment upon the citizens of Franklin, La., is not approved—

1st. Because it is not within the line of his authority, nor of that of any subordinate military officer.

156 2d. Because the basis of assessment cannot be justified. The town of Franklin is not within the lines of the army, either for the purpose of establishing trade stores, or for the purpose of election, as desig-

nated in general orders No. 35. It is simply a military post, from which the army was likely to be withdrawn at any moment. Berwick's Bay is the established military line in that direction for all civil purposes. The basis of assessment would include loyal women if they chanced to possess property. The funds will be turned over to the provost marshal general, until further orders. He is directed to make an immediate enquiry as to the authority of persons in trade at that place, and to ascertain from the best sources of information what remedy should by applied under the circumstances. It is an important case, and his best efforts should be used to do justice to all parties.

(Signed) N. P. BANKS, *M. G. Com'd'g.*

157 *Notice to take testimony, issued July 20th, 1864.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
104 HHDS. SUGAR, &C. } No. 7863.

To Sullivan, Billings & Hughes, esq's:

You are hereby notified that testimony will be taken in the above-entitled cause on Thursday, the 21st day of July, 1864, at the clerk's office, at 12 m., on behalf of libellants.

[SEAL]
N. O, July 20th, 1864

K. LOEW, *D'y Cl'k.*

Marshal's return.

Received July 20th, 1864, and served a copy of the within notice, in person, on A. D. B. Hughes, esq., one of the partners of the firm of Sullivan, Billings & Hughes, at their office, on Canal st., on July 20th, 1864.

D. CHRISTIE, *D'y U. S. Marshal.*

158 *Testimony taken by clerk, and filed July 21st, 1864.*

UNITED STATES
vs.
104 HHDS. SUGAR, &C. } No. 7863.

Testimony taken in presence of district attorney of U. S. and Sullivan, Billings & Hughes.

(Counsel for claimant reserves all legal objections.)

Charles C. Swanson, sworn for U. S., says: I have been captain of U. S. transports. Was the captain of the U. S. transport J. M. Brown in Oct. or Nov., 1863, and continued to be her captain till 21st March, 1864. This boat went up to Cote Blanche in January and February last. Cote Blanche is sometimes called Huff's Island. She went there to get some 450 hhds. of sugar said to be there. She did not get that sugar on account of meeting the enemy, some 40 or 50 in number, cavalry. When I saw them coming down the hill I backed the boat out and rounded to. I shifted the 6-pound howitzer aft and shotted them with shells, and fired some 8 or 10
159 rounds. The enemy retreated to where they came from, back of the crest of the hill. Can't say where their camp was, but it was reported to me that their camp was back of Cote Blanche, in Cyplemore woods. This woods is not far back of the island, but I can't say exactly how far it is. I don't think it is over 2½ or 3 miles back, from the description I heard of it. This island is connected with the mainland by a bridge. The

island has three hills; when you come in from Cote Blanche Bay, the island has a form of three hills, one at the left, the other at the right, and the highest one at the back. There were no U. S. forces on Cote Blanche Island. The rebels were there, and I saw them from 50 to 70 in number. This was in February. I left Brashear City on 30th, and arrived at Cote Blanche at about 5 p. m. on 31st, and made a landing at the wharf same evening. Was informed by an inhabitant of the island that the enemy had been looking for the J. M. Brown early in the morning. I am not able to say whose sugar it was that I went after. I have been told that Mr. Adams, who was
160 on board, was either interested in the sugar or acted as the agent of C. A. Weed & Co. Adams directed me where to land and where the sugar lay. After receiving the information that the enemy was there I did not stay at the landing, but backed out some 300 yards. It was reported to me that Bailley Vincent was the commander of that party of rebels, but whether he was present at the time I don't know. Cote Blanche could not have been within the Union lines at that time, being held by the enemy. I have positively stated that it was held by the enemy at this time. After I left, on the 1st Feb'ry, I had no further knowledge about the occupation of Huff's Island, whether by the rebels or federals, except from hearsay. I heard from various sources that that place had always been occupied by Bailley Vincent's band. I heard so various times after my return to Brashear; heard so in April. I did not hear any firing about Huff's or Week's Islands in April. One of the gunboats was fired at on Bayou Teche. Heard this from parties present in March, 1864. I was relieved from my command on 21st March, 1864.

Cross-examined.

It was early in the morning, just after sunrise, that I saw the
161 rebel forces come down the hill; they approached us about 800 yards out of rifle range. I knew they were Confederates by their uniforms. Some looked like citizens, some wearing homespuns just like prisoners you have seen; they were not all dressed alike. They did not fire at me. I do not know that they were Confederates except from what I have stated and what people told me, but they were armed and mounted. I backed out and rounded to immediately after having learned what they were. I used a glass to discern what the men were. My boat was at the head of the wharf, 300 yards from the shore, on the evening of 31st Jan'y, 1864, where we had anchored. I then backed her out, on account of the strong wind, some one and a half miles. Next morning, 1st Febr'y, I again weighed anchor and stood towards the landing at Cote Blanche. After I discerned that the men were enemies I rounded to and shelled them and drove them back to the hill where they had come from. The shelling occupied some 20 minutes in all. After the shelling was through I came away. I am not very much used to battles, but have been under fire 2 or 3 times, and am no coward. I
162 am not in the employ of the quartermaster at present. I know that on 31st January Gen'l Franklin's division was stationed at New Iberia, his headquarters being at Franklin. By land, in a direct line, Cote Blanche is distant from Franklin some 10 or 12 miles, perhaps not quite so much, and I think it is further from New Iberia than from Franklin.

Re-examined.

The distance from Cote Blanche to Franklin is about 100 miles by water, by way of Brashear City. There is no direct water line from one place to another except by way of Brashear. After the shelling I conferred with the

lieutenant in command of some 50 men on my boat; the lieutenant refused to land his men, and ordered the boat back to Brashear City.

CHARLES C. SWENSON,
Late capt. U. S. transport J. M. Brown.

Document O is offered in connection with the testimony of witness.

"O."

DEPOT Q'R'MR'S OFFICE, *Brashear City, La., Jan.* 30, 1864.

163 Capt. Swanson, commanding steamer J. M. Brown:

You will proceed at 12 o'clock this p. m. with a guard of 50 men, who will report on board of your boat, to "Cote Blanche Island," for the purpose of getting some four hundred and fifty hogsheads of sugar there. Mr. Adams will show you the exact place. After taking the sugar you will report to this port without delay.

Very respectfully,
A. M. BRADSHAW, *Capt. and A. Q. M.*

Order cause fixed for trial, from minutes of July 27th.

UNITED STATES
vs.
104 HHDS. SUGAR, &C. } No. 7863.

On motion of the district attorney, ordered that this cause be fixed for trial on Friday, the 29th inst., at 10 a. m., and that the claimants be notified hereof.

164 *Notice to claimants, issued July 27th, 1864.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
104 HHDS. SUGAR, &C. } No. 7863.

To Sullivan, Billings & Hughes, esq.:

You are hereby notified that the above cause has been assigned for trial on Friday, 29th inst., at 10 a. m.

By order of court.

[SEAL] K. LOEW, *D'y Cl'k.*

N. O., July 27th, 1864.

Marshal's return.

Received July 27th, 1864, and on the 20th day of July, 1864, served a copy of the within notice on E. C. Billings, esq., one of the within-named firm, in person, at the office of said firm.

M. EGAN, *D'y U. S. Marshal.*

Release bond of Frank Blydenburgh, filed July 27th, 1864.

165 UNITED STATES OF AMERICA,
Eastern district of Louisiana:

Know all men by these presents that we, Frank Blydenburgh, of the city of New Orleans, *of* claimant of 84 hhds. sugar, marked [G], libelled herein, as principal, and A. C. Graham, W. R. Hodges, and A. S. Mansfield as sureties, are held and firmly bound unto the United States of America, libellant, in the sum of ($20,000) twenty thousand dollars, lawful money of the United States of America, for the payment whereof to the said United

States, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals, hereunto affixed by us at New Orleans, this 14th day of July, one thousand eight hundred and sixty-four.

Whereas an admiralty warrant was lately issued out of the honorable the district court of the United States of America for the eastern district of Louisiana, at the suit of the United States *vs.* 104 hhds. sugar, &c., &c., and numbered 7863 on the docket of the said court, commanding the marshal to seize and take into his possession the said sugar, which has been seized accordingly, but of which 84 hhds. sugar, marked [G], has been released from said seizure and delivered to F. Blydenburgh, the claimant and owner thereof, by reason of the signing, sealing, and delivery of these presents, said F. Blydenburgh having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now the condition of the above obligation is such that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree, rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise, shall remain in full force and virtue.

(Signed)	FRANK BLYDENBURGH.	[L. S.]
(Signed)	A. C. GRAHAM.	[L. S.]
(Signed)	W. R. HODGES.	[L. S.]
(Signed)	A. S. MANSFIELD.	[L. S.]

Signed, sealed, and delivered in the presence of—
K. LOEW, *D'y Clk.*
[50 cent stamp.]

166 A. C. Graham and W. R. Hodges, being sworn, say they reside in this city, and are each worth the amount of the bond over and above all their liabilities.

A. C. GRAHAM.
W. R. HODGES.

[5 cent stamp]

Sworn to and subscribed before me this 14th July, 1864.
K. LOEW, *D'y Clk.*

Appearance of surety in open court, from minutes of July 27th, 1864.

UNITED STATES
vs.
104 HHDS. SUGAR, &C. } No. 7863.

A. S. Mansfield, one of the sureties on the bond of Frank Blydenburgh, this day appeared in open court and proved his solvency to the satisfaction of the court and district attorney.

167 United States district court, eastern district of Louisiana.

NEW ORLEANS, *Clerk's Office, ss:*

UNITED STATES
vs.
104 HHDS. AND 36 BBLS. SUGAR, &C., &C. } No. 7863.

The President of the United States of America to the marshal of the eastern district of Louisiana, or his lawful deputy, greeting:

Whereas Frank Blydenburgh, claimant and owner of 84 hhds. of sugar,

libelled in this case, hath filed a claim thereto, and obtained leave of court to bond said 84 hhds. of sugar, marked [G], and which said claim and order is now of record in this office:

You are hereby authorized to release the said 84 hhds. sugar, [G,] from seizure, and them to restore to the possession and custody of said claimant, he having given bond conditioned as required by the order of court, and otherwise complying with the rules of the court, &c., and make return hereon of your doings in the premises.

Witness the Hon. Edward H. Durell, judge of said court, at
[SEAL.] New Orleans, this 27th day of July, A. D. 1864, and the 89th year of the independence of the United States.

K. LOEW, *D'y Cl'k.*

168 Received July 27th, 1864, and on the same day complied with the within order of release by giving the claimant named within an order on the freight agent of the Opelousas R. R. Co., (Mr. G. O. Bearse,) to deliver the property named within to said claimant, the said Bearse having charge of the property for safe-keeping, under my authority.

JAS. GRAHAM, *U. S. Marshal.*

169 *Hearing and submission, from minutes of July 29th, 1864.*

UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR, &C. } No. 7863.

This cause came up for trial—district attorney for libellant; Sullivan, Billings & Hughes for claimants—when, after hearing the evidence taken under the order for further proof, the cause was submitted to the decision of the court without argument.

Note of evidence, filed July 29th, 1864.

UNITED STATES
vers.
104 HHDS. SUGAR, &C. } No. 7863.

Claimants offered in evidence the testimony, taken under the order for further proof, of the following witnesses:

Of Capt. W. L. Evans, Dominick Pochelu, David McLeod, Capt. A. M. Bradshaw, Robert Hare, H. E. Lawrence, and H. Humphreys; also special permits A, B, and C.

170 (Counsel for United States objects to the reception of the whole, and reserves his bill of exception.)

Libellant offered the evidence of Capt. S. B. Washburne, of James Hardenbrook, and Swanson.

Submitted without argument.

Permit "A," offered by claimant, and filed July 29th, 1864.

Special license to purchase within and ship from insurrectionary States, under the proviso of the 5th section of the act of Congress of July 13th, 1861.

PORT OF NEW ORLEANS.

To whom it may concern:

This may certify that C. A. Weed has this day filed within my office an application for a license to purchase within the limits following, to wit:

Country known as Cote Blanche and Weeks Island, within thirty days, within U. S. military lines, and to transport thence to New Orleans, by way of the Teche and Opelousas railroad, the goods and chattels, wares,
171 and merchandise named and described as follows, viz:

Five hundred hhds. of sugar, one thousand barrels of molasses.

And the said C. A. Weed hath made oath before me, pursuant to the regulations prescribed by the Secretary of the Treasury.

Now, therefore, by virtue of the authority of the President of the United States, conferred on me through the Secretary of the Treasury, in pursuance of the proviso of the 5th section of the act of Congress approved July 13, 1861, entitled "An act further to provide for the collection of duties on imports, and for other purposes," I do hereby authorize and permit the said C. A. Weed to purchase within the limits above described, and to transport thence to New Orleans, by way of the Teche and Opelousas R. Road, the above-named goods, chattels, wares, and merchandise; provided, however, that any violation of the "regulations concerning internal and coastwise intercourse" prescribed by the Secretary of the Treasury, March 3, 1863, or of the local rules and restrictions of the supervising special agent of the Treasury Dep't, shall work an immediate revocation of this license, and all purchases of transportation under it after such violation the same as though the license had not been issued. The right is also reserved to revoke, suspend, or qualify this license at such time and in such manner as the public interests may require.

In testimony whereof, I have hereunto set my hand and affix the seal of this office this 26th day of March, 1864.

GEO. S. DENISON,
[SEAL.] Per W. C. GRAY,
Special agent Treasury Department.

Copy of original issued at this office.

W. C. GRAY, *D'y C.*

172 *Permit "B," filed July 29th, 1864.*

[Duplicate.]

Special license to purchase within and ship from insurrectionary States, under the proviso of *of* the 5th section of the act of Congress of July 13, 1861.

PORT OF NEW ORLEANS.

To whom it may concern:

This may certify that C. A. Weed has this day filed within my office an application for a license to purchase within the limits following, to wit:

Country known as the parish of St. Mary, La., within thirty days, within U. S. military line, and to transport thence to New Orleans, by way of the Brashear City and Opelousas railroad, the goods and chattels, wares and merchandise named and described as follows, viz:

One thousand hhds. of sugar, five hundred bbls. of molasses.

And the said C. A. Weed has made oath before me, pursuant to the regulations prescribed by the Secretary.

Now, therefore, by virtue of the authority of the President of the United States, conferred on me through the Secretary of the Treasury, in pursuance of the proviso of the 5th section of the act of Congress approved July 13th, 1861, entitled "An act further to provide for the collection of duties on imports, and for other purposes," I do hereby authorize and permit the said C. A. Weed to purchase within the limits above described, and to
173 transport thence to New Orleans, by way of Brashear City and Opelousas railroad, the above-named goods and chattels, wares and mer-

chandise; provided, however, that any violation of the "regulations concerning internal and coastwise intercourse" prescribed by the Secretary of the Treasury March 31, 1863, or of the local rules and restrictions of the supervising special agent of the Treasury Department, shall work an immediate revocation of this license, and all purchases of transportation under it after such violation shall be unlawful, the same as though the license had not been issued. The right is also reserved to revoke, suspend, or qualify this license at such time and in such manner as the public interests may require.

In testimony whereof, I have hereunto set my hand and affix the seal of this office this 15th day of October, 1863.

GEO. S. DENISON,
[SEAL.] Per W. C. GRAY,
Special agent Treasury Department.

174 *Permit "C," filed July 29th, 1864.*

[This permit will accompany the shipment, and be surrendered at the custom house.]

Special license to purchase with and ship from insurrectionary States, under the proviso of the 5th section of the act of Congress, July 13, 1861.

PORT OF NEW ORLEANS.

To whom it may concern:

This may certify that F. Blydenburgh has this day filed within my office an application for a license to purchase within the limits following, to wit:

Country known as the parish of St. Mary, La., within thirty days, within U. S. military lines, and to transport thence to New Orleans, by way of the Opelousas R. Road, the goods and chattels, wares and merchandise named and described as follows, viz:

One hundred hhds. sugar.

And the said F. Blydenburgh has made oath before me, pursuant to the regulations prescribed by the Secretary of the Treasury. Now, therefore, by virtue of the authority of the President of the United States, conferred on me through the Secretary of the Treasury, in pursuance of the proviso of the 5th section of the act of Congress approved July 13, 1861, entitled "An act further to provide for the collection of duties on imports, and for other purposes," I do hereby authorize and permit the said F. Blydenburgh to purchase within the limits above described, and to transport thence to
175 New Orleans, by way of Opelousas railroad, the above-named goods and chattels, wares and merchandise; provided, however, that any violation of the "regulations concerning internal and coastwise intercourse" prescribed by the Secretary of the Treasury March 31, 1863, or of the local rules and restrictions of the supervising special agent of the Treasury Department, shall work an immediate revocation of this license, and all purchases of transportation under it after such violation shall be unlawful, the same as though the license had not been issued.

The right is also reserved to revoke, suspend, or qualify this license at such time and in such manner as the public interests may require.

In testimony whereof, I have hereunto set my hand and affix the seal of this office this 13th day of April, 1864.

GEO. S. DENISON,
[SEAL.] Per W. C. GRAY,
Special agent Treasury Department.

To be consigned to Geo. S. Denison, acting collector of customs, for investigation here.

(Attached.)

Authority to purchase products under permits.

F. Blydenburgh, of New Orleans, in the parish of Orleans, and State of Louisiana, having applied to me for authority to purchase one hundred hhds. of sugar, under a proper permit at , in the parish of St. Mary,
176 State of Louisiana, and to transport the same to market, under section 20 of regulations prescribed by the Secretary of the Treasury, September 11, 1863, concerning commercial intercourse with and in States declared in insurrection, and having made and attached to his application the prescribed affidavit, and executed a bond to the United States in a penalty, and with sureties approved by me, I hereby authorize ~~any~~ proper permit any officer to permit the said F. Blydenburgh to purchase said products at the place aforesaid, if within the military lines of the United States forces, and to transport the same to market, provided, that the said F. Blydenburgh shall comply with regulations 20 and 21, and obtain from an authorized permit officer a permit for the purchase and transportation of such products. This authority is subject to revocation, and all products purchased under it are subject to seizure and forfeiture to the United States. In case of any violation of the regulations so prescribed, or local rules made under them, and unless renew, it will expire thirty days after date, and thenceforward be of no force whatever.

Given under my hand this 13th day of April, A. D. 1864.

[SEAL.] BENJ. F. FLANDERS,
Special agent, fifth special agency.

This authority to be attached to the permit issued in accordance with the above, and to accompany the shipment.

To be consigned to Geo. S. Denison, acting collector of customs, for investigation here.

177 *Bill of exceptions, filed August 16th, 1864.*

United States district court, in prize.

UNITED STATES
vs.
104 HHDS. SUGAR, &C. } No. 7863.

Be it remembered that on the trial of the above-entitled cause, on the 29th day of July, 1864, E. C. Billings, of the firm of Sullivan, Billings & Hughes, representing the claimants, offered in evidence the testimony of W. L. Evans, D. Pochelu, David McLeod, Capt. Bradshaw, Robert Hare, H. E Lawrence, and H. Humphrey, taken under the order for further proof, granted by the court heretofore, to prove that that portion of Louisiana in which the prize property was captured, and from whence it had been shipped, was not a section of country in insurrection, and was not enemy's country. Whereupon the attorney for the United States and the captors in interest objected to the introduction of the same, on the ground that the legal status of the States and parts of States heretofore declared in insurrection by the President, and the question whether any such State or part of State is in the condition of peace or war, loyal or disloyal, in insurrection and rebel-
178 lion or not, are not matters *in pais* for the courts to determine, that the judicial power is not competent to receive evidence upon, or to decide such questions, which objection was overruled by the court, and the evidence admitted, and the attorney for the United States reserved his objection.

And be it further remembered that the testimony of the said witnesses was offered at the same time, place, and occasion to contradict testimony taken *in preparatorio* in the said case. Whereupon the said attorney for the United States objected, on the ground that testimony taken *in preparatorio* cannot be contradicted in a prize court by the claimants upon an order for further proof, and that testimony offered by claimants for such a purpose is incompetent and inadmissable, which objection was overruled by the court, and the testimony admitted, and the said attorney for the United States reserved his objection.

And the said attorney tenders this his bill of exceptions, and prays that it be acknowledged and signed accordingly.

E. H. DURELL, *Judge.*

179 *Bill of exceptions,* (*No.* 2,) *filed August 16th,* 1864.

U. S. district court, in prize.

UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR, &c. } No. 7863.

Be it remembered that on the trial of the above-entitled cause the claimants offered in evidence some three or four papers purporting to be permits issued by George S. Denison, esq., acting collector of customs of New Orleans and agent of the Treasury Department, to allow sugar and molasses seized herein to be purchased in and transported from the section of country from which the said goods were shipped before capture. Whereupon the attorney of the United States and captors in interest objected to the admission of the said papers on the grounds—

1st. That the said papers were not found on board the vessel upon which the sugar and molasses were captured.

2d. That no legal permits could have been granted by the said Denison to purchase in or transport from the said section, as it was beyond the trade district and beyond the lines of national military occupation,

180 and within the enemy's country.

3d. That the said papers are irrelevant to the issue.

Which objections were overruled by the court and the said papers admitted in evidence, to which ruling the said attorney excepted, and tenders this his bill of exceptions, which is allowed and signed accordingly.

E. H. DURELL, *Judge*

Judgment of restitution, rendered August 16th, 1864.

UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR AND 237 BBLS. MOLASSES; also 186 hhds. sugar and 103 bbls. molasses. } No. 7863.

For the reasons orally assigned by the court, it is ordered, adjudged, and decreed that the original and supplemental libels be dismissed, and that the libelled property be restored to the claimants.

Judgment signed August 29th, 1864.

E. H. DURELL, *Judge.*

181 *Petition for appeal, filed August 31st, 1864.*

U. S. dist. court, eastern dist. of La., in prize.

UNITED STATES
vers.
104 HHDS. AND 36 BBLS. SUGAR AND 237 BBLS. MOLASSES; also 186 hhds. sugar and 103 bbls. molasses. } No. 7863.

To the Hon. Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

The petition of C S. Kellogg, United States attorney, in the name and in the behalf of the United States of America, respectfully represents that a final sentence and decree were entered on the 29th day of August, 1864, in the above-entitled case in the U. S district court for the eastern district of Louisiana, in and by which said final sentence and decree it was ordered, adjudged, and decreed that the original and supplemental libels be dismissed, and that the libelled property be restored to the claimants; that said final sentence and decree is adverse to said libellant, and to his
182 manifest injury and prejudice; that the matter in controversy exceeds the sum of two thousand dollars; that your petitioner, in behalf as aforesaid, feels aggrieved by the rendition of said final decree, and is advised that the same is erroneous and ought to be reversed.

Wherefore your petitioner, in behalf as aforesaid, doth hereby appeal from said final sentence and decree to the Supreme Court of the United States, returnable on the first Monday of December next, and prays that this hon. court may grant him a suspensive appeal from said final decree, the same to operate as a supersedeas, and that the said decree may be reversed, and such other decree thereupon made as to the said Supreme Court shall seem just, and that a transcript of the record and proceedings in this cause, duly authenticated, may be sent up to the Supreme Court of the United States without delay.

C. S. KELLOGG, *U. S. Dist. Att'y.*

Order allowing appeal.

A suspensive appeal, to operate as a supersedeas, is allowed in this case, as prayed for, returnable in the Supreme Court of the United States the 1st Monday of December next, the appellant being by law dispensed from giving bond and security in judicial proceedings.

N. O., August 31st, 1864.

E. H. DURELL, *Judge.*

183 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
104 HHDS. AND 36 BBLS. OF SUGAR, 237 BBLS. MOLASSES; also 186 hhds. sugar and 103 bbls. molasses. } No 7863.

The United States of America to Chas. A. Weed, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States at its next term, to be holden in the city of Washington, D. C., on the first Monday of December next, to answer the appeal taken by the United States in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the

said United States on 29th Aug., 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 31st August, in the year of our Lord 1864, and the 89th of the American independence.

E. H. DURELL.

184 Received August 31st, 1864, and the same day, month, and year served a copy of the within citation of appeal on J. H. McKee, one of the partners of the said Chas. A. Weed, a commercial firm under the name and style of Weed, Witters & Co., at the office of said firm, No. 79 Tchoupitoulas street, corner of Common street, in the city of New Orleans.

August 31st, 1864.

M. EGAN, *D'y U. S. Marshal.*

185 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES *vs.* 104 HHDS. AND 36 BBLS. SUGAR AND 237 BBLS. MOLASSES; also 186 hhds. sugar and 103 bbls. molasses.	No. 7863.

The United States of America to F. Blydenburgh, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States at its next term, to be holden in the city of Washington, D. C., on the first Monday of December next, to answer the appeal taken by the United States in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said United States on 29th Aug., 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 31st August, in the year of our Lord 1864, and the 89th of the American independence.

E. H. DURELL, *Judge.*

186 Received August 31st, 1864, and the same day, month, and year served a copy of the within citation of appeal on F. Blydenburg, personally, at the office of Graham, Hodges & Co., 48 Canal street, in the city of New Orleans.

August 31st, 1864.

M. EGAN, *D'y U. S. Marshal.*

187 United States district court, eastern district of Louisiana.

I, Kilian Loew, deputy clerk of said court, hereby certify that the foregoing 186 pages do contain and form a complete and correct transcript of the original record, and of all the proceedings had, documents filed, and evidence adduced at the trial of the case of the United States *vs* 104 hhds. and 36 bbls. of sugar and 237 bbls. of molasses, also 186 hhds. of sugar and 103 bbls. of molasses, No. 7863 of the docket.

In testimony whereof, I hereto set my hand and the seal of our court, at New Orleans, this 6th day of October, A. D. 1864, and the [SEAL.] 89th year of the American independence.

K. LOEW, *D'y Clk.*

Filed 19th November, 1864.

In the Supreme Court of the United States.

DECEMBER TERM, 1866.

THE UNITED STATES, libellants and appellants,
vs.
C. A. WEED and F. BLYDENBURGH, claimants and appellees, and 104 hhds. 36 bbls. sugar and 237 bbls. molasses; also, 186 hhds. sugar, 103 bbls. molasses. } No. 103.

Appeal from the district court of the United States for the eastern district of Louisiana.

THE CASE.

This property was captured on the 15th and 23d April, 1864, on board a government transport vessel in Atchafalaya bay, near Morrison's cut, in Louisiana, by the United States gunboat Wyanza, and libelled as prize of war in the district court of the United States for the eastern district of Louisiana.

On the 2d May, 1864, CHARLES A. WEED filed a claim for 206 *hogsheads of sugar*, 36 *barrels of sugar*, and 235 *barrels of molasses*, as his sole property, and on the 12th May a supplementary claim for the same property. To each of these was annexed a special affidavit, stating that the claimant was a loyal citizen of the United States, residing at New Orleans, Louisiana; that on the 20th October, 1863, he had purchased said sugar and molasses from loyal citizens at *Franklin*, Louisiana, and transported the same to *Cote Blanche*, Louisiana; that both places were within our military lines at the time; that the purchase and transportation were under and in accordance with a license issued to him on the 15th *October*, 1863, by the supervising special agent of the Treasury De-

partment for the 5th special agency, authorizing him to purchase, within thirty days, 500 *hogsheads of sugar* and 1,000 *barrels of molasses*, in the parish of St. Mary, Louisiana, and to transport the same to New Orleans; that on the 26th *March*, 1864, the claimant duly obtained from said special agent a second license for the transportation of sugar and molasses (the quantities of which are stated differently in the original and the supplemental affidavits) from said *Cote Blanche* to New Orleans; that the claimant loaded a government transport, hired for the purpose, with said sugar and molasses, and shipped the same at *Cote Blanche* for New Orleans, and on the passage the same was seized by the Wyanza. (Rec., pp. 4-6; also pp. 21-23.)

On the 24th May, 1864, F. BLYDENBURGH filed a separate claim for 84 *hogsheads of sugar*, annexing an affidavit stating that he had obtained a license from the special agent for the 5th special agency to transport said sugar from the parish of *St. Martin*, in Louisiana, and had hired a United States transport to convey the same from the said St. Martin's parish to the city of New Orleans, and that while on the passage on said transport the sugar was seized, etc. Rec., pp. 23-24.)

The court having made an order for taking the testimony of such persons as might be produced by the United States, or the captors, the prize commissioners examined seven persons "captured or connected with said sugar and molasses," and duly reported their testimony to the court. (Rec., pp. 2-8-9.)

On the 7th of July, 1864, the court made an order for further proof on the part both of libellants and claimants, (Rec., p. 28;) and thereupon, depositions of several witnesses were taken, under mutual cross-examination, which were considered upon the hearing.

Bills of exception seem to have been taken by the District Attorney to the admission of the testimony for the claimants, taken under this order for further proof, and to other rulings. (Rec., pp. 59-60.)

The court dismissed the libel, and thereupon the United States appealed to this court.

TESTIMONY ON THE PART OF THE LIBELLANTS.

1. *The Blydenburgh transaction.*

The goods were purchased in and transported from *St. Martin's* parish, *St. Mary's being designated in the license*, (Rec., p. 58-59,) at a place called John Glenn's plantation. (Rec., pp. 18-19.) The person from whom it was purchased was of questionable loyalty. (Ibid.) Where the produce was raised, does not appear. It was taken on board the steamer A. G. Brown, a United States transport (hired for the purpose) under military protection in actual prospect of a hostile attack. (Rec., p. 20.) On the return passage, by consent of the alleged owner's agent on board, the persons in charge of the vessel attempted to elude lawful inspection. (Rec., p. 19.) Glenn's plantation is about sixty-five miles from Brashear city, or Berwick's Bay, northwesterly, about the head of Grand Lake. (Rec., p. 18.) No papers whatever were captured with this property. (Ibid.) It was seized after reaching the wharf of Brashear city. (Rec., p. 19.)

2. *The Weed transaction.*

In February, 1864, more than thirty days after the 26th of October, 1863, and anterior to the date of the second alleged license of Weed, the United States transport J. M. Brown was hired by Weed's alleged agent, one Adams, and sent to Cote Blanche (otherwise called Huff's) island, a point lying about head of Cote Blanche Bay, on the gulf-coast of Louisiana, southwesterly of Berwick's Bay, so called. (Rec., p. 45.) The expedition was commanded and guarded by United States troops. It is not clear by whom or on whose behalf this attempt to ship property from Cote Blanche island was made. Weed's alleged subsequent agent, McLeod, says he was on board, and that the sugar and molasses stored there were the property of Weed, and seems to say that they were a part of the identical goods now in suit. (Rec., p. 45.)

On the other hand, the other witnesses make no mention of McLeod's connection with the undertaking, but say that one Adams, not mentioned by McLeod, acted in the matter, which was carried on by his personal orders. (Rec., pp. 11, 52, 53.) There is no proof that Adams had, at any stage, any privity with Weed. The order to the master of the boat under which it proceeded shows that Adams alone represented the goods. (Rec., p. 54.) This expedition was frustrated by an attack of the public enemy. (Rec., pp. 11, 52, 53.)

On the 6th April, 1864, near midnight, the transport A. G. Brown, having been hired by McLeod, as he alleges, for Weed, from the post quartermaster at Brashear city, set out to procure the goods in suit. The boat was powerfully armed, and guarded by two pieces of artillery and a company of United States troops, completely equipped for action. (Rec., pp. 39 to 44.) Besides McLeod, the commander of the troops, and the master, &c., of the boat, one Captain W. L. Evans, an officer of the army, on detached duty, was in command of the expedition. (Rec, p. 39) The force was uncommonly strong. (Rec., pp. 49–50.) Upon approaching Huff's (Cote Blanche) island, the expedition was formally challenged by an armed man on shore. Other men, claiming the military character, were with him. A parley was held, and an amicable understanding had before the object of the expedition was attempted. It was finally effected at that point and at Week's island, in the vicinity, under a flag of truce, during a period of three days. (Testimony of Captain Evans, Rec., pp. 39 to 44, and of all the witnesses to the point.) On the return trip the white flag continued to be displayed until the capturing vessel appeared. The commandant of the latter came on board, and, finding this merchandise without credentials, made the capture. (Rec., pp. 12, 17, and elsewhere.) It was said that a corresponding flag was displayed by the rebels at their local headquarters on the hill. (Rec., p. 16.) Some of these persons, claiming a hostile military character, were hospitably entertained on board the transport; the guard, meantime,

being kept out of offensive sight. (Rec., pp. 12 to 17, 39 to 44.) A person suspected by Captain Evans (Rec, pp. 39–40) to be the notorious guerilla chief of the neighborhood, and identified as such by others of the expedition, was not arrested. (Rec., p. 13.) This person, Bailey Vincent, on the faith of the flag, accompanied Captain Evans to the dock. (Rec., pp. 39, 40, 42.) Evans trusted himself with confidence out of sight of his men, (Rec., p. 16,) alone among armed men. (His own testimony, Rec., pp. 39–40.) Several persons, believed to be rebel soldiers, remained on board during the whole three days. (Rec., pp. 12 to 17.) It is not established with certainty in whose interest the transaction was conducted. An antecedent negotiation seems to have been effected through an Irishman named Doyle, said to have been a protected British subject. He was armed. He described himself as a party in interest, (Rec., p. 16,) or as a purchaser. (P. 13.) Money seems to have been paid by him (Rec., p. 17.) His connection with the transaction is obscure and suspicious. He was found on shore, with the other people, having their characteristic dress. *He was probably the real guilty agent of an illicit trade.*

3. *The facts at large.*

The transactions in question occurred during the process of contracting the government military occupation consequent on the disastrous failure of the Red River expedition. General Banks, commanding in the State, was at Grand Ecore, in the field, the permanent headquarters being at New Orleans. The waters of the region were blockaded, including the bays and rivers mentioned herein. No large hostile force was in the vicinity, but occasional collisions and skirmishes kept the United States troops on the footing of field service, as appears incidentally throughout the testimony, which shows also that government transports went armed from post to post as in a hostile country. The locality in question comprises the

parishes of St. Martin and St. Mary; the former being interior and the latter on the coast. This district is indented on the Gulf side by several bays, with numerous islands, creeks, &c., divided by two or three navigable rivers, broken by swamps and lakes, and traversed in every direction by numberless bayous and watercourses; all which appears from the testimony, illustrated by recourse to a common map. These circumstances rendered the absence of a public enemy a fact not to be ascertained by any circumscribed observation. (Rec. p. 30.)

On the very day before the capture of Weed's alleged merchandise, the Major-general commanding had occasion, in "an important case," not connected with this issue to designate, for the instruction of a subordinate, the "established military lines for civil purposes" in the direction (from New Orleans) of the localities in question. He had reference to their past as well as what was then their present condition. He said that *Franklin*, the place where Weed alleges that he purchased, and from whence he claims to have brought the merchandise, was "not within the lines of the army, either for the purpose of establishing trade stores, or for the purpose of election, as designated in General Orders No. 35. It is simply a military post from which the army was likely to be withdrawn at any moment. Berwick's bay is the established military line in that direction for all civil purposes." He also directs an inquiry to be instituted into the authority of persons in trade at Franklin. This important document is printed on pages 51 and 52 of the Record. All the localities concerned in this case are beyond Berwick's bay, (a place near the confluence of the Atchafalaya and Teche rivers, the site of Brashear city,) and consequently, by the competent authority, were and had been beyond the United States military lines, even though in January, 1864, General Franklin had at the town of the same name his military headquarters. (Rec., p. 53.)

The President's proclamation of 31st March, 1863, was in force, in which, expressly because of embarrassments arising from exceptions in favor of particular States and parts of States,

he revokes all such exceptions and proclaims all such States to be "in a state of insurrection against the United States, and that all commercial intercourse not licensed and conducted as provided" by acts of Congress "is unlawful, and will remain unlawful," etc., and that all merchandise, etc., "will, together with the vessel or vehicle conveying the same, be forfeited to the United States." From this no southern locality, but some sea-ports named, was excepted. This proclamation is ignored by the claimants, of whom one recites the revoked exceptions which had been made in the proclamation of January 1, 1863, (erroneously called 1864.) It had been promulgated in the Treasury regulations and otherwise. (Rec., p. 4, 22.)

Under this proclamation, the regulations prescribed by the Secretary of the Treasury, under date of the 11th September, 1863, were in force.

THE ALLEGED LICENSES.

1. *Blydenburgh's license.* (Rec., p. 58, 59.)

(a) The first words of the document are these: "*This permit will accompany the shipment and be surrendered at the custom-house.*" A similar requirement is subjoined to the "authority" which had first been procured. The evidence shows that the license did not, nor did any other papers, accompany the merchandise. (Rec., p. 18.) This was a violation of the conditions of the license, which, by its own terms, was thus avoided.

(b) The permit was to purchase in and transport from "St. *Mary's* parish." The testimony (Rec., pp. 18, 19) and Blydenburgh's own averment (Rec., p. 24) show that the whole transaction was in "St. *Martin's* parish." For this he does not pretend to have had any license.

(c) It is not pretended that John Glenn's plantation, on Grand river, in St. Martin's parish, was within any "trade" or "supply" district, without which, as hereafter shown, no license could lawfully issue.

(d) There is no proof in the record of ownership of these eighty-four hogsheads of sugar, even if Blydenburgh had a license to purchase and transport them. Add to this that there is no evidence that the sugar was purchased from a loyal person, that it seems to have come from the indefinite interior, that it was laded in prospect of hostilities, (Rec., pp. 18, 19, 20,) and that it was attempted to be concealed from the capturing vessel, and we may dismiss the Blydenburgh claim from separate consideration.

2. *Weed's licenses.*

(*a*) Two documents are exhibited. One is dated 15th October, 1863; the other, 26th March, 1864. They are not supported by producing the "authority" on which they are required to be based by the Treasury regulations, (XX,) as was done by Blydenburgh. (Rec., p. 59.) They are printed on pages 56, 57, and 58. Their execution is not proved, as if their genuineness would be judicially taken notice of. They are both signed "*Geo. S. Denison, per W. C. Grey, special agent Treasury Department.*" No explanation is offered as to whether Gray or Dennison was the agent. None is offered for the absence of the "authority" of the supervising special agent. No allegation is made anywhere in the record of the fact of express sanction of the commanding general. They are not consistent with each other, or with the claimant's sworn averments, viz:

(*b*) The permit of 15 October, 1863, designates the goods, "*one thousand hhds.* of sugar, *five hundred bbls.* of molasses."

That of 26 March, 1864, designates "*five hundred hhds.* of sugar, *one thousand barrels* of molasses."

In Weed's first affidavit, (Rec., pp. 4–5,) he mentions two licenses, as his first and second, corresponding in date with the above, but describes them in part by the quantity of the goods, which he puts at "*five hundred hogsheads* of sugar and *one thousand barrels* of molasses" for the "first" one, and at

"*five hundred hogsheads* of sugar and *three thousand barrels* of molasses" for the "second" one.

In Weed's second affidavit, (Rec., p. 21–22,) he similarly refers to his licenses, and in describing one dated the 26th March, 1864, he designates the quantity still differently, viz: "*two hundred* hogsheads of sugar and *three hundred* barrels of molasses."

(*c*) The alleged permits authorize purchase only within "our military lines," and have no validity or effect in law beyond said military lines.

(*d*) In Weed's affidavit annexed to his claim, (Rec., p. 4–5,) he states that the first permit mentioned therein by him was "duly obtained by and issued to this deponent from the *supervising* special agent of the fifth special agency," and that "a second license was duly obtained by and issued to this deponent from said special agent." (Rec., p. 4–5.) In his supplemental affidavit, the same distinct expressions occur. (Rec., pp. 21–22.) Treasury regulation VI names the persons who may have power to issue permits. Regulations XX prescribes the manner of procuring the "authority" from a *different* officer, either a "supervising special agent" or an "assistant special agent." On such authority, the former persons may issue a permit. In this respect, *Blydenburgh's* license, being regular, is an illustration of the defect of authority in Weed's. (Rec., p. 58–59.) One Flanders seems to have been the "supervising special agent of the fifth special agency," and consequently the officer mentioned by Weed in his affidavits. But that name does not occur in the permits. Therefore, the permits described by Weed in his affidavits, which must have been signed by another officer, and those introduced, signed with the names of Gray and Dennison, are different instruments. Thus, to all the other discrepancies mentioned must be added a most material one between allegation and proof. That the two sets of instruments agree in date, as averred or exhibited, while disagreeing in identity and quantity of merchandise, increases the difficulty, by justifying the suspicion,

if not the presumption, that the absent papers have been fraudulently suppressed: being those issued by the higher authority, (under Reg. XX,) with restrictions according to circumstances; and constituting, under the regulations and the principles of evidence, the real license of the transaction, of which the permit was satisfactory evidence, not to a court but to the military or naval police only.

ARGUMENT.

It is a familiar principle that licenses of this character are strictly construed. The rule against constructive license is probably the sternest principle known to the law. (The Hoop, 1 Rob., 216.) Even where the licensee was deceived by the course of the captor's government, a persuasive equity could not relieve him. (The Charlotta, 1 Dodson, 387–393.) The party who uses a license "engages not only for fair intentions, but for an accurate interpretation of the permit." (Ld. Stowell, The Cosmopolite, 4 C., Rob. 13.) The claimant in a prize court is an actor, and must make out his case. (The Amiable Isabella, 6 Wheaton, 77.) But during the late war, for the best of reasons, the doubt seems to have gone in this court against the individual, in deference to controlling public objects. (The Reform, 3 Wallace, 628, et seq.) And notorious recent experience shows the mischief of indulgence in the very particular in hand.

I.—*The captured merchandise was acquired, shipped and transported, not under any license of the United States, but under the authority and by the license of the enemy.*

Goods shipped under the license, pass, or permission of the enemy, are enemy's property. (The Julia, 8 Cranch, 181; The Ariadne, 2 Wheat., 143; U. S. *vs.* Cargo El Telegrafo, 1 Newberry Adm., 383; 1 Duer Ins. 582, 587; The Gœde Hoop, 2 Acton, 32.)

1. The shipment was effected, and probably the goods

purchased on the spot, during an express truce. The truce was solemn and mutual, and, as such, respected on both sides. The adverse military parties trusted themselves implicitly in each other's power. (Rec., p. 16, and from 12 to 17.) The flag was up on both sides. (Ibid.) It was demanded by the rebels, and conceded by Captain Evans, who, by raising the symbol of truce, estopped himself and his side from denying the competent military character of Vincent and his men. The usages of war in this sacred exception apply with equal dignity, whatever be the numbers who engage for it. The entire Confederate army, had it suddenly appeared, must have sustained this license of Vincent and his squad, expressly given as it was by them, (Rec, p. 16,) until they could lawfully terminate the truce. On the other hand, until regularly withdrawn, the commander-in-chief of the federal army could not lawfully have made a capture in sight of this white flag. For the time, place, and transaction, this truce bound both belligent powers of the war.

2. The license was exclusively that of the enemy, because he controlled the will of the federal commander and of the licensee. (Rec, p. 34.) The rebels expressly forbade the transaction until they chose, upon exacting a solemn truce, to expressly license it. It could not have been carried on without making booty of the goods by military capture, or else receiving them by the sole authority of the challenging force, (Rec., p. 12 to 17,) upon such considerations as they found profitable or satisfactory. It was a trading with the enemy in arms, (Rec., p. 34 to 44.) Unless the license claimed was a license to bargain in a hostile camp, though its own terms restricted it to the "United States military lines," it is clear that it must have been totally inoperative then and there. But, literally, the license itself was not then there, nor any other papers to evidence it. (Rec., p. 9.)

Treasury Regulation VII says:

"Commercial intercourse with localities beyond the lines of military *occupation* by the United States forces is strictly pro-

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hibited; *and* no permit will be granted for the transportation of any property to any place *under the control* of insurgents against the United States."

The permits themselves read: "Provided, however, that any violation of the regulations," &c., "prescribed by the Secretary of the Treasury," &c., "or of the local rules," &c., "shall work an immediate *revocation* of this license, and all purchases or transportation under it, after such violation, shall be unlawful, the same as though this license *had not been issued*." (Rec., p. 53.)

This license was thus revoked as soon as the licensee's agent acted, though seeing that the spot was not in the exclusive occupation of the United States forces. It was as if it "had not been issued."

II.—*The alleged licenses of Weed and of Blydenburgh never existed in fact or in law.*

1. *Not in fact.*

(*a*) Because these permits are not authenticated. The defect is rendered serious by the palpable ambiguity of the signatures. (Rec., pp. 57, 58.) Is Gray the officer who purports to be "special agent of the Treasury Department?" If so, the interpolation of the name "Geo. S. Denison" between his signature and the instrument vitiates the latter. If he is not, then there is no evidence that the signature of Dennison is genuine.

(*b*) The papers claimed to have the power of imparting to Weed authority to purchase and transport a particular lot of merchandise are grossly inconsistent with each other and with the averments of the alleged licensee, as to the *quantity*, an element inseparably material in such a question.

(*c*) And inconsistent with the papers not exhibited, as described, in the affidavit of Weed, as to identity, and which, if there was a license, constituted the proper evidence of it.

(*d*) The alleged license of Blydenburgh applied only to the parish of St. Mary, while he confesses that his transactions

were in St. *Martin*, for which he does not pretend to have had a license.

(*c*) There is no evidence of official character. If the power of granting licenses is at all capable of delegation, at least the utmost strictness is necessary in ascertaining the qualifications of the grantor. Regulation VI, and following, designate what officers alone shall have the power. There is no evidence here that any of the persons purporting to be such officers were such at the respective dates.

2. *These licenses did not exist in law.*

(*a*) Because they had no military sanction. In nearly every page of the regulations this requirement is laid down. (Pp. 6 and 7, and Regs. VI, IX, X, XVIII, XX, etc., etc.) The particular regulation cited by Weed in his answer (Reg. X.) as that under which he procured his permits, allows the erection of "supply districts," with "the sanction of the general commanding the department, but *in no case without his sanction.*" A power in *stricto jure* is entitled to no presumption in favor of the fulfilment of its conditions precedent. The opposite presumption is raised here by the order of General Banks, directing an inquiry into the authority of trade carried on where Weed claims to have purchased his merchandise, before referred to. (Rec., pp. 51, 52.)

(*b*) No permits could issue except in "trade districts," or "supply districts" by the agents, and these could only be established with the concurrence of the commanding general. (Reg. VIII, IX, X, etc., etc.) The only evidence on the point imports the *disapprobation* of the commanding general, (*supra.*)

(*c*) These licenses are not shown to have been issued to be used within "districts" as contemplated in the regulations. (*Ibid.*) Of the existence of such district or districts, in or embracing the localities in question, there is no evidence in the record. It is a fatal defect. Regulation XX prescribes the stringent conditions precedent and the complex process for

procuring a permit. It shows clearly that a license under those regulations could not be evidenced by the permit alone, but must have the antecedent "authority" annexed to it, as a part of the document. Blydenburgh produced his counterpart. (Rec., p. 59.) Weed omitted his, if indeed there existed such.

No constructive force can enlarge a license of this character, and it is incredible that one should be intended for such a transaction as this—expressly forbidden as it was by the Regulation VII, cited above.

III.—*The merchandise in suit is not identified with the alleged permits, or as the property of the claimant.*

The onus of an intervenor is nowhere more pressing than on this point. Quantity is one of the elements of identity where a lot of merchandise is in question. In this case the property claimed here by Weed is of a quantity precisely stated in the libels. His various averments and exhibits in no instance approximate the description of quantity therein. But, moreover, they five times speak a quantity, and in no two instances do they agree—even allowing great latitude—with each other, as we have shown at large some pages back. It is possible that the other and principal license papers which are withheld may, besides other unfavorable matter, contain designations of quantity in still further variance. There must have been a motive for their non-production.

But the testimony is not to the point with reasonable confidence of Weed's own witnesses. (Rec., pp. 45, 46.) The connection of Adams with certain goods lying at Cote Blanche in February, 1864, (Rec., p. 11,) is not explained. Nor that of Doyle (Rec., pp. 13, 16, 17) at the time of shipment. Taking into account that Weed's permits were not, nor any other papers, found with the goods where they belonged, (Rec., p. 9,) and for the free passage of which they must have been issued, to accompany the goods if they were his, it becomes very

doubtful, not only whether this merchandise was ever purchased and transported under the permits mentioned in the record, but whether it was, at the time of the capture, the property of the claimant.

Upon the whole, the discrepancies mentioned render it immediately obvious that no particular lot of merchandise could possibly be recognized through such extreme inconsistencies of identification as mark the showing of Weed, independently of all collateral circumstances of suspicion, and of the extraordinary strictness of the legal principle of the subject.

IV.—*The alleged license of Weed, of date October* 15, 1863, *did not authorize or protect a purchase of property at Cote Blanche or Franklin, (the same not being then and there within United States military lines,) and no title or ownership in the said property was, therefore, acquired by the alleged transaction of Weed under said license.*

V.—*Even if Cote Blanche was at the date of the second license,* 26*th March,* 1864, *within our military lines, no title was acquired by Weed in said property in pursuance of the said second license, inasmuch as no contract of purchase and sale of said property under said second license is alleged or proved; and the said property at the time of capture was not, therefore, the property of said Weed, but of enemies of the United States, and, as such, good and lawful prize of war.*

We commit these propositions with confidence to the impressions which may have been made by the testimony and citations introduced for the support of those preceding.

CONCLUSION.

In view of a possible adverse point, it may be remarked that no possible latitude of duty imputed to a quartermaster or other officer of the army could embrace the power to license trade, and consequently no power of countenancing any trade

transaction, by contract with the trade, or otherwise, so as to affect in the least the validity of a naval capture.

The decree of restitution ought to be reversed and a decree of condemnation entered.

HENRY STANBERY,
Attorney General.

J. HUBLEY ASHTON,
Ass't Attorney General.

Supreme Court of the United States.

DECEMBER TERM, 1866.

IN PRIZE.

The United States, Libellants and Appellants,

vs.

Certain Sugar and Molasses, C. A. Weed, Claimant, and Certain Sugar, F. Blydenburgh, Claimant.

No. 103.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

ARGUMENT FOR CLAIMANTS.

TITIAN J. COFFEY,
OF COUNSEL FOR CLAIMANTS.

Gibson & Wormeley, Printers & Stereotypers, Washington, D.C.

IN SUPREME COURT OF THE UNITED STATES.

In Prize.

DECEMBER TERM, 1866.

THE UNITED STATES, LIBELLANTS AND APPELLANTS,
vs.
CERTAIN SUGAR AND MOLASSES, C. A. WEED, CLAIMANT, AND CERTAIN SUGAR, F. BLYDENBURGH, CLAIMANT.
No. 103.

ARGUMENT FOR CLAIMANTS.

The first libel was filed 20th April, 1864, against 104 hogsheads of sugar, and 36 barrels of sugar, and 237 barrels of molasses, alleging their capture 15th April, 1864, (Rec., p. 1,) to which Weed filed a claim 2d May, 1864. (Rec., p. 4.)

But on the 3d of May, 1864, by leave of court, a supplemental libel in prize was filed against 290 hogsheads and 36 barrels of sugar and 340 barrels of molasses, alleging that they were captured as lawful prize on or about the 23d of April, 1864, by the U. S. steamer Wyanza, Lieutenant Washburne commander. (Rec., p. 7.)

Both libels alleged that the property was lawful prize, and was within the jurisdiction of the court, but neither stated where it had been captured, or whether at sea or on land.

On the 12th of May, 1864, C. A. Weed filed a second claim, in answer to the supplemental libel, claiming that 206 hogsheads of sugar, 36 barrels of sugar, and 335 barrels of molasses, of the property therein mentioned, were his sole property, and

denying that any of it was rightfully subject to capture as lawful prize, or should be forfeited or condemned. (Rec., p. 21.)

In the test oath annexed he sets forth at length the grounds of his claim, showing a valid title to the sugar and molasses by purchase and possession in accordance with the laws of the United States and regulations of the Secretary of the Treasury, and under the valid authority, sanction, and protection of the appropriate civil and military agents of the Government in Louisiana. (Rec. pp. 21, 23.)

On the 24th of May, 1864, F. Blydenburgh filed a similar claim to 84 hogsheads of the said sugar, as his sole property, verified by test oath, alleging, more briefly, like grounds of lawful ownership. (Rec., pp. 23, 24.)

These two claims cover all the property embraced in the supplemental libel. But, as will be seen, the sugar and molasses claimed by Weed were seized at a time and place different from those in which the sugar claimed by Blydenburgh was seized.

We present the facts relating to each seizure and claim separately and in historical sequence.

WEED'S CLAIM.

The fifth section of the act of 13th July, 1861, (12 *Stat.*, 257,(having prohibited commercial intercourse (after Presidential Proclamation) between the insurrectionary and loyal States, and provided that the President might, in his discretion, license and permit such intercourse as he might think conducive to the public interest, under rules and regulations prescribed by the Secretary of the Treasury, and the President having, by proclamation of 16th August, 1861, (12 *Stat.*, 1262,) declared the inhabitants of certain States (including Louisiana) in insurrection, and prohibited commercial intercourse between them and the other States, "without the special license and permission of the President, through the Secretary of the Treasury," &c., the officer last named, with the President's approval, made, and from time to time modified, such rules and regulations for licensing and permitting the interdicted trade as the act of 13th July, 1861, had authorized. (See Trade Regulations of 28th August, 1862, superseded by regulations of 31st March, 1863, which were

superseded by regulations of 11th September, 1863, and to which additions were made 26th January, 1864; especially sections 7, 8, 19, of regulations of 31st March, 1863, and sections 20, 21, 22, 23 of regulations of 11th September, 1863, and general orders of Secretaries of War and the Navy, appended to regulations of 31st March, 1863.)

These regulations prohibited general trade with insurrectionary districts, and provided for licensing and permitting special trade with such districts under proper limitations and restrictions. They provided, in detail, for the appointment of Supervising Special Agents of the Treasury Department, to supervise the execution of the regulations within designated districts; for the issuing of permits to purchase produce within the lines of national military occupancy, and transport the same to market; such permits to be obtained from the Supervising Special Agent or his assistant, by all loyal and proper persons, upon conditions carefully prescribed.

By general orders, the Secretaries of War and the Navy directed their respective subordinates to observe and enforce these regulations, and specially prohibited any interference by them with any purchase, sale, or transportation conducted thereunder. (*Reg. 31st March*, 1863, p. 10.)

The act of 13th July, 1861, with its supplements and various kindred acts, embodied the uniform policy of lightening the burdens of war to the loyal inhabitants of the rebel States in so far as was consistent with a vigorous prosecution of hostilities, and of permitting the outlet of southern products from loyal sources for northern consumption, whenever such trade did not inure to the benefit of the rebel government and armies.

This wise and beneficent policy inspired the trade regulations of the Secretary of the Treasury, and, as our armies advanced into the enemy's territory and the national authority was gradually restored, the advantages of peaceful and honest trade were extended to all who were willing, in good faith, to accept them; thus furnishing the means of subsistence to the impoverished people and an inducement to returning loyalty. As the national flag progressed, it was followed by na-

tional protection and the blessings of peace to those who desired peace. (See *The Venice*, 2 *Wal.*, 277.)

Hence, by the additional regulations of 26th January, 1864, all persons being or residing in any of the insurrectionary States, *whether within or beyond the lines of national military occupation*, were allowed freely to bring any goods or products from within the State where they resided to any place within such lines, where there was a Supervising Special Agent or his assistant, for sale or other disposition; and so much of any regulation theretofore established as required the obtaining of any previous authority or permit for bringing goods and products to the place of sale was thereby rescinded.

For this regulation, and the restrictions annexed thereto, see Reg's 52, 53, 54, 55, and 56, of January 26, 1864, and the President's approval thereof.

After the capture of New Orleans, in the spring of 1862, and the withdrawal of the blockade of its port, (Pres't's Proc. 12th May, 1862,) that city became the centre of an active and lawful trade in southern products, which gradually increased as our military forces extended their occupation of the adjacent portions of Louisiana and enlarged the domain of restored national authority. This necessitated the extension of the trade regulations to that district of country and the appointment of appropriate officers to supervise that trade. During the years 1862 and 1863 many loyal northern citizens settled in New Orleans, and availed themselves of the advantages of the trade thus permitted, and they became the effective nucleus of loyalty in Louisiana.

Among these was C. A. Weed, who applied for, and on the 15th of October, 1863, obtained, in the usual form, a license or permit from the proper agent of the Treasury Department at New Orleans, to purchase within the "country known as the parish of St. Mary's, La., within thirty days, within U. S. military lines, and to transport thence to New Orleans, by way of the Brashear City and Opelousas railroad," one thousand hogsheads of sugar and five hundred barrels of molasses, subject to the regulations of the Secretary of the Treasury then in force. (*Permit*, Rec., pp. 57, 58.)

Under this authority, David McLeod, as agent for Weed, in the last of October, 1863, purchased of Marcus Walker and T. D. Hines, at Franklin, a town in the parish of St. Mary's, where Walker and Hines resided, three hundred and seven hogsheads of sugar, fifty-nine barrels of sugar, and three hundred barrels of molasses, the greater part of which is now claimed by Weed in this case, for a sum exceeding $22,000, and for which Weed paid them in U. S. Treasury notes. (See *McLeod*, Rec., p. 45, *and bills attached dated 29th and 30th Oct.*, 1863, Rec., p. 47.) The sugar and molasses were then lying on two small islands in Cote Blanche bay, (which is also in the parish of St. Mary's,) one of which is called Cote Blanche or Huff's Island, about six miles from Franklin in a direct line, and twelve miles by the road, (*Lawrence* Rec., p. 31,) and the other, called Week's Island, seven or eight miles from Huff's Island.

It is beyond doubt that at the date of this purchase, and for a long time afterwards, the town of Franklin and the parish of St. Mary's were not only within our military lines, but in our actual military occupancy. Robert Hare says: "During the latter part of October the parish (St. Mary's) was occupied by the Federal forces. There was a military post at Franklin, Col. Landrum in command. Col. Landrum was post commander. Gen. Franklin had passed through the Teche country, from Brashear City, and to some point beyond Cote Blanche towards New Iberia, on the prairies. I heard of no rebel forces between Vermillion and Cote Blanche bay and the Teche. There were no rebel forces in that region. It was supposed to be occupied by Federal troops." Hare afterwards adds that he saw a portion of Gen. Franklin's forces in the latter part of October, November, and December. (Rec., pp. 30, 31.) H. E. Lawrence says that from the 10th to the 20th of October he saw a large portion of Gen. Franklin's force crossing Berwick's bay into the parish of St. Mary's. New Iberia and Franklin were garrisoned, and the Federal forces, he says, did not leave Franklin until the latter part of March or first of April following. (Rec., pp. 31, 32.) This was not an evacuation of Franklin, but an advance beyond it; for Capt. Bradshaw says that in April, 1864, Gen. Franklin moved his forces up from Franklin to New

Iberia, and further. (Rec., p. 37.) The captor, Lieut. Washburne, (who was most improperly examined as a witness in his own behalf,) does not deny that at the date of this purchase the parish of St. Mary's was within our lines. Nor was there any rebel occupation of the parish. No rebel troops were seen, except as prisoners, within our lines. (See *Hare, Lawrence*, Rec., 30, 31; *Humphreys*, 36; *Bradshaw*, 37; *and especially Capt. Evans*, 41.)

The residents of St. Mary's, near Franklin, were, with few exceptions, Union men, and Walker and Hine were well-known loyalists. (*Lawrence*, 31; *McLeod*, 45.)

Not having removed his property from the islands in Cote Blanche bay within the time limited by the permit of 15th Oct., 1863, Mr. Weed applied for, and on the 26th of March, 1864, obtained from the same special agent, a permit, in the usual form, to purchase, within the country known as Cote Blanche and Week's Island, within thirty days, within United States military lines, and to *transport thence to New Orleans*, by way of the Teche and Opelousas railroad, five hundred hogsheads of sugar and one thousand barrels of molasses, subject to the regulations, &c., then in force. (See *Permit*, Rec., pp. 56, 57.)

The point at which the sugar and molasses were to be shipped on the Teche and Opelousas railroad, for New Orleans, was Brashear City, which is about twenty-five miles from Huff's Island by land, and about sixty or seventy miles therefrom by water. The most convenient communication between those places being by water, Mr. Weed, by his agent, McLeod, applied to Col. Holabird, the chief officer of the quartermaster's department, for a Government transport to carry his property from Huff's and Week's Islands to Brashear City. That officer referred him to Capt. Bradshaw, the post quartermaster, stationed at Brashear City. (Rec., p. 46.) Under the written orders of his chief, Col. Holabird, Capt. Bradshaw dispatched the steamer A. G. Brown, a vessel owned by the Government and in charge of the quartermaster's department, from Brashear City to Cote Blanche bay for the sugar and molasses. Mr. Weed paid Col. Holabird $3,000 for the service of the boat, by a draft on C. A. Weed & Co., given to Bradshaw, and payable

to the order of Col. Holabird. This money was applied by these officers to the use of the Government in the quartermaster's department, and was accounted for by them in their settlements. (See *McLeod*, p. 46; *Bradshaw*, pp. 37, 38.)

The expedition had full military sanction. Capt. W. L. Evans, of the 91st N. Y. artillery, had been assigned by Gen. Banks to Col. W. W. Day for special duty, and he was ordered by Col. Day to take charge of any forces that went out on any of the transports at that time at Brashear City. Capt. Evans was specially ordered by Col. Day, in writing, to go on board the United States transport A. G. Brown, and take command of the military force on board, to proceed to Cote Blanche bay, and bring on board this sugar and molasses, and to return as soon as possible to Brashear City. Col. Day was at this time at Thibadeaux, *commanding the district.* (*Evans*, pp, 39, 41, 42; *Bradshaw*, 37.)

As was usual in these expeditions, a guard was detailed, of which Capt. Evans took command. The A. G. Brown left Brashear City on the evening of the 6th of April, 1864, and reached Huff's Island at 3 o'clock p. m. of the 8th. The lading of the sugar at that island was completed by the evening of the 11th, (Rec., p. 15,) and on the next day, the 12th, she went to Week's Island, where the molasses was taken on board. She returned to Huff's Island on the 14th, and on the 15th left for Brashear City, having in tow a barge, on which part of the sugar had been loaded at Huff's Island.

On the same day, (the 15th April,) near the mouth of the Atchafalaya river, she was overtaken by the U. S. gunboat Wyanza, Lieut. Washburne, who came on board the A. G. Brown, and, after demanding the papers of McLeod, with the consent of Capt. Evans, sent an officer on board, who proceeded in her, as a passenger, to Brashear City. But he did not take possession of her or her cargo as prize of war, for Capt. Evans says he placed a guard over the boat and sugar until he reported to the quartermaster, who relieved him of responsibility at Brashear City. (Rec., p. 43.) There the sugar and molasses were taken out and sent, part by railroad and part by water, to New Orleans. (See *Hardenbrook*, p. 34; *Bradshaw*, 37; *Evans*, 39; *Pochelu*, 44; *McLeod*, 45; *Bigelow*, 14.)

The property thus seized on the 15th of April consisted of two hundred and six hogsheads of sugar, thirty-six barrels of sugar, and three hundred and thirty barrels of molasses. (Rec., pp. 8, 9.)

The captors attempted, but failed, to show that Huff's and Week's Islands were in possession of an armed rebel force when the A. G. Brown arrived, and that the cargo was laden by rebel permission under a flag of turce.

If this were true, it would not subject to lawful capture property otherwise lawfully owned by the claimant.

But it is not true. The impression sought to be created by the captor's principal witnesses, St. John and Hull, (one arrested on the trip for drunkenness, and the other dishonorably dismissed from Government service,) that there were three or four "rebels" or "independent scouts" on shore, because of whose presence a flag of truce was raised on the transport, is utterly false, and is contradicted by all the other testimony. (See *Bigelow*, p. 14; and *Hardenbook*, captor's witness, who did not know if the few persons there were citizens or soldiers, and says they were not armed, except one, p. 34; *Bradshaw*, who says he had the authority of Col. Day that there were no enemies there, and who had other direct information to that effect, p. 37; *Evans*, who states that the persons referred to were citizens, and that there were no rebel troops in all that region, through which he had been scouting for seven months previous to this expedition, pp. 40, 41; *Pochelu*, p. 44; *McLeod*, p. 45.)

Capt. Evans explains that when they approached Huff's Island he saw some one on shore wave a white cloth or handkerchief. Hull, who was the pilot, asked him if he could wave one in reply, and Capt. Evans consenting, he did so. After he went ashore Capt. Evans learned that Mrs. Huff was alarmed lest the vessel might shell the island; and to calm her fears, he sent orders on board to raise a flag of truce as a guarantee of peaceful purpose. (See *Evans*, p. 39.)

At Week's Island the troops went ashore *without guns*. (Rec., p. 36.)

The whole testimony clearly shows that there were no rebel forces in that neighborhood, but that it was one of those obscure

and quiet spots where licensed trade might safely be prosecuted wthout possible injury to the national cause.

On the 11th of January, 1864, Gen. Banks, by a proclamation, (issued by presidential authority,) invited the citizens of Louisiana to assemble on the 22d day of February, 1864, and vote for State officers, and on the first Monday of April, 1864, to vote for delegates to a State Convention to revise the Constitution of Louisiana. By a subsequent proclamation, Gen. Banks, under like authority, designated the places of voting at those elections, and, among others, he designated voting places in the parish of St. Mary's. Elections were actually held on those days at the places named in that parish; and in the State Convention which subsequently sat at New Orleans, and which reorganized the State government now existing in Louisiana, Charles Smith sat as the delegate elected by St. Mary's at the election held in April, 1864. (See *Weed's Test Oath*, pp. 22, 23; *Bradshaw*, p. 37.)

BLYDENBURGH'S CLAIM.

On the 13th of April, 1864, Blydenburgh applied for and obtained from B. F. Flanders, Esq., and George S. Denison, Esq., the proper agents of the fifth special agency, a permit to purchase within the country known as the parish of St. Mary's, Louisiana, within thirty days, within United States military lines, and to transport thence to New Orleans, by way of the Opelousas railroad, one hundred hogsheads of sugar.

Under this authority, on the 22d April, 1864, the Government transport A. G. Brown was sent, by the direction of Capt. Bradshaw, quartermaster in charge at Brashear City, from that city to Glenn's plantation, at Butte la Rose, on Grand river, about sixty-five miles from Brashear. She there took on board eighty-four hogsheads of sugar, which had been purchased by a man named Goodwin for the claimant, named Blydenburgh. The expedition was under the charge of Capt. Evans, who had been detailed for that purpose. The steamer started back on the 23d of April, and reached Brashear the same day. Capt. Washburne sent a company of marines and a prize crew, and took possession of the sugar, and rolled it ashore, and it was

subsequently conveyed to New Orleans. (*Hull*, p. 18; *Mann*, 20 *Bradshaw*, 37.)

Butte la Rose is an island in Grand river. According to Bradshaw, p. 38, Humphreys, p. 36, and Pochelu, p. 44, there were no rebel forces whatever at Butte la Rose. Capt. Evans had been scouting during the previous fall and winter, and for months after this seizure, through that part of the State, including Grand river. During that time he never saw a rebel force in that region, p. 41. Nor have the captors produced any evidence whatever of rebel occupancy or hostile character.

CLAIMANTS' POINTS.

FIRST.

The purchases made, respectively, by Weed at Franklin, in October, 1863, and by Blydenburgh at Butte la Rose in April, 1864, were valid, and vested in them the ownership of the property so purchased, because they were made under and in strict pursuance of the permits issued, one to Weed 15th October, 1863, and the other to Blydenburgh 13th April, 1864, and the property so purchased was, therefore, rightfully restored to the claimants by the decree.

1. The right of the President and Secretary of the Treasury to confide the execution of the power, conferred on them by the act of 13th July, 1861, on subordinate officers, under such general regulations and restrictions as they might impose, is unquestionable.

And the power to delegate the *duty* of issuing permits, necessarily implies the power to delegate the *discretion* involved in issuing or refusing them, subject to such regulations as the President and Secretary might impose, and subject to their supervision and control.

2. The special agent having thus the power to decide when he may issue a permit to purchase goods, the presumption of law is that when he has exercised that power in due form, the licensee

has complied with all necessary previous conditions. (*Phil. & Trent. R. R. Co.* vs. *Stimpson*, 14 *Pet.*, 458, 459; *Reform*, 3 *Wallace*, 634.

3. A further presumption of law is that the special agent will not issue the permit to purchase in a district outside of the national military lines, or in any district where such purchase would be unlawful. (*Letter Sec. Treas. to Supervising Agent Mellen*, 3 *July*, 1863; *Trade Reg.*, 11 *Sep.*, 1863.)

Therefore the burden of proof rests, not on the claimant to show that his license to purchase designates a district inside the national military lines, but on the captor to show that the district designated is outside such military lines.

4. Especially is this true where, as in these cases, the license duly issued designates a particular district of well-known boundaries, and asserts that it is within the national military lines.

5. Even if the license assert that the designated district is within the national military lines, when it is in fact outside those lines, goods purchased thereunder in good faith will be protected from forfeiture, because it is the duty of the special agent, and not the duty of the licensee, to know where the military lines are.

To subject such goods to forfeiture in that case, would be to visit the innocent licensee with the consequences of a blunder not his own, but of the agent of the Government which enforces the forfeiture.

It is the duty of the agent, not of the licensee, to know the truth of the facts set forth in the license, and especially to know the extent of the military lines of his own special agency, and for the Government to enforce forfeiture of the goods of an innocent licensee because *its* agent erred in performing an official duty, is a self-evident infraction of justice. It would be taking advantage of its own wrong.

Therefore, even if these permits, or either of them, asserted wrongly that the parish of St. Mary's was within the national military lines, that error will not work a forfeiture of the goods purchased under the permit at the place it designated, there being

no evidence that the licensees, or either of them, knew or could have known it was an error.

6. But the assertion in the permits, that the districts designated were within the national military lines, was strictly true.

A. As we have seen, the assertion of the fact by the special agent in the permit is so inherently probable as to compel belief of itself, in the absence of other proof. It is itself a high order of proof.

B. We have already adverted to the proofs that the national forces, months before these permits were issued, actually occupied the parish of St. Mary's and the town of Franklin, where Weed purchased the goods he claims; that that occupancy was peaceful and undisturbed all through the fall and winter of 1863–4, and that the forces, if removed in the spring, (in April, *after* the second permit had been issued,) were removed, not to give place to the enemy, but to take the field in more advanced districts; that at no time, during the operation of any of these permits, was there any force of rebels within the designated district; so that its military *status* was not changed. This is true of Butte la Rose, as well as of the islands in Cote Blanche bay.

7. Convincing proof that these districts were within our lines, is afforded by the action of General Banks in designating places therein for holding elections (by authority of President Lincoln) for State officers on the 22d February, 1864, and delegates to the State Constitutional Convention on the first Monday in April, 1864, followed by the peaceful action of the people in voting at these elections, and by their being represented in the State Convention by a delegate of their own choice. These important proceedings are utterly inconsistent with any theory of rebel occupancy, and necessarily imply, not only that these districts were within our military lines, but that the Government considered the national authority fully reëstablished therein.

8. But the highest proof that these districts were within our

military lines, within the meaning of the Trade Regulations, is furnished by the most important official act of President Lincoln's life. By his proclamation of 22d September, 1862, (12 *Stat.*, 1267,) he declared that on the 1st of January, 1863, all persons held as slaves within any State or designated part of a State in rebellion, should be thenceforward free, and that the Executive would, on the said 1st of January, by proclamation, *designate the State and parts of States, if any, in which the people thereof, respectively, should then be in rebellion against the United States.* Accordingly, on the 1st of January, 1863, his great proclamation of freedom designated the States and parts of States wherein the people thereof were then in rebellion, including the State of Louisiana, *except the parishes of St. Bernard, Plaquimines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terre Bonne, Lafourche, St. Mary's, St. Martin's, and Orleans, including the city of New Orleans.* (12 *Stat.*, 1269.)

Thus by this decree, the most momentous of the century, the Government expressly recognized and conceded that the districts designated in these licenses were not within the rebel dominion, but were restored to the authority of the national Government.

9. These impressive proofs having shown that the districts designated in the permits were not only within our military lines, but were restored to subjection to the national authority, and were no longer in rebellion, at periods both before and after the issuing of the permits, raise a conclusive presumption that the districts were within our lines, and the national authority incumbent there at the times when the permits were issued and operative. Nor will any vague proof of the presence of supposed guerrillas overcome that presumption.

10. The assertion in the permits that the designated districts were within our lines, being then true, and the purchases under those permits having been made within thirty days from their date, the claimants strictly complied with all the requirements and conditions of the Trade Regulations essential to the validity

of their permits, and their respective purchases vested in them a complete title to the property so purchased.

That property, therefore, from the moment of purchase, acquired the *status* of Weed and Blydenburgh, residents of New Orleans, and lost the character which the ownership of residents of Franklin and Butte la Rose (supposed enemies) might have before impressed on it.

SECOND.

The effect of the President's proclamation of 1st January, 1863, formally declaring that the districts within which these purchases were made were not enemy territory, and expressly exempting them from the operation of the law of war, followed by the authorized proclamations of General Banks, designating election places within those districts, and by the peaceful holding of elections therein, was, to relieve those districts of the character of enemy or insurrectionary districts, and their inhabitants of the character of enemies, either impressed on them by the laws of war or by the act of 13th July, 1861, and the President's proclamation of 16th August, 1861, and to restore them to the authority and protection of the national Government. And this restored relation of obedience to, and protection from the national Government being thus recognized and declared by that Government, this court, sitting in prize to determine the *status* of property of the inhabitants of those districts, captured when water borne, is bound also to recognize and declare.

To this effect is *The Venice*, 2 *Wall.*, 258. The occupation of New Orleans by our forces, completed on the 2d of May, 1862, followed by General Butler's proclamation on the 6th, relieved Cook of enemy character, so as to protect his water-borne property from capture, as prize, on the 15th, the effect of military occupation and control being, as the court said, to draw after it the full measure of protection to persons and property, consistent with a necessary subjection to military government. (See *Opinion of the Chief Justice.*)

If military occupation at New Orleans had such effect within

two weeks of the capture of that place, *à fortiori*, the parishes excepted out of the Emancipation Proclamation in January, 1863, and holding authorized elections in February and April, 1864, were in like relations to national authority at the date last named, and the property of their peaceful residents was then entitled to like protection.

Nor was the military occupation of St. Mary's and St. Martin's, and of the route therefrom to New Orleans, less "substantial, complete, and permanent" than that of New Orleans. This court will presume it to have been of that character, from the facts of the exception in the proclamation and the holding of elections, and there is no proof to show that it was afterward disturbed.

If these views be correct, it follows, then, that but for the President's proclamation of 2d April, 1863, (13 *Stat.*, 730,) trade between New Orleans and the parishes of St. Mary's and St. Martin's would have been as lawful as trade between any other sections of the country not under rebel authority, and the property in question might have been lawfully transported from the places of purchase to New Orleans without even the necessity of a trade permit under the Treasury regulations. But that proclamation revoked the exception in the proclamation of the 16th August, 1861, (which reserved out of the territory wherein commercial intercourse was prohibited, such States or parts of States as might be from time to time occupied and controlled by the United States forces,) and, in effect, subjected those States, or parts of States, to the general prohibition of commercial intercourse, notwithstanding their occupancy by the national troops. The proclamation of 2d April, 1863, was issued, as it recites, because experience had shown that the exceptions in the proclamation of 16th August, 1861, embarrassed the due enforcement of the act of 13th July, 1861, and the proper regulation of the commercial intercourse authorized by that act with the loyal citizens of the rebel States. The obvious purpose of the proclamation was to place the trade of all of the excepted parts of the rebel States (save those it specified) under the control of the President and Secretary of the Treasury. Its effect was, as is declared in *The Venice*, merely to bring all parts of the

insurgent States under the special licensing power of the President, conferred by the act of 13th of July, 1861.

Therefore, because of the proclamation of 2d April, 1863, and for that reason only, it was necessary for Weed and Blydenburgh to obtain permits to purchase in and transport from St. Mary's and St. Martin's. If the proclamation had not been issued, they might have purchased and transported to New Orleans without a permit; its only effect when issued was to require of them such permit. Otherwise these parishes were no more hostile territory than New Orleans was.

The purchase of these goods was not, then, a purchase from residents of *enemy territory* under a license, or, in other words, licensed trade with *enemies;* but it was a purchase by "loyal citizens" of New Orleans from "loyal citizens" of St. Mary's and St. Martin's, all of whom were in actual and legal relations of obedience to and protection from the national Government, under a permit which the existence of rebellion elsewhere made a proper precaution. *Having no element of enemy property, the prize court could have no jurisdiction of it as such.*

THIRD.

The permit issued to Weed, 26th March, 1864, was not merely a permit for transportation under the 23d rule of the Regulations of 11th September, 1863, but was a permit to *purchase* and transport, within thirty days, the goods specified along the route and to the destination indicated.

It was not merely a permit to transport goods already purchased, because it authorized the purchase of a larger quantity than Weed had bought under the permit of 15th October, 1863, and whilst, by its terms, he might transport under it those then purchased, he might also have enlarged his purchase. As the right to transport is incidental and subordinate to the right to purchase, the clause which authorized transportation was operative as long as the right to purchase lasted, viz, thirty days. Under the last permit, therefore, he had a right to transport any sugar and molasses he owned, not exceeding the quantity named, at any time within thirty days from its date.

These permits must be construed liberally in aid of the just and generous policy of the statute and regulations to protect and supply loyal citizens. Even licenses to trade with *enemies* are liberally construed, if they be not fraudulently used. (See *The Goede Hoop, Edwards*, 327; *The Vrow Cornelia, Ib.*, 350; *The Johan Pieter, Ib.*, 354; *Flindt* vs. *Scott*, 5 *Taunt.*, 674; 15 *East.*, 525, *and cases in Pritchard's An. Dig.*, 247, 248.)

FOURTH.

The transportation of the goods of Weed and Blydenburgh from the places where they were purchased, by water, to Brashear City, whence they were to be carried by railroad to New Orleans, involved no breach of blockade, whereby a lawful right of capture as prize could inure.

1. Weed and Blydenburgh had a right to transport their property to New Orleans. The permits to purchase and transport implied the right to bring it to market by the route indicated, viz, by Brashear City. (*Kennington vs. Inglis*, 8 *East.*, 273; *The Clio*, 6 *Rob.*, 70; *Pritch. Dig.*, 248.) But the only method of transportation from the islands in Cote Blanche bay and Butte la Rose, on Grand river, was by water. The permits, therefore, necessarily included the transportation from those points to Brashear City, by water, as part of the designated route.

This was strictly internal trade. The *port* to which the goods were destined was New Orleans, an open unblockaded port. They were no more violating a blockade of the coast of Louisiana by going to Brashear for railroad shipment, than if they had been coming down the Red river or the Mississippi to New Orleans. To hold that goods purchased under license in a part of Louisiana reduced to national authority, were violating the blockade of the coast of that State, because, proceeding to New Orleans, they were being carried across some of the bayous which indent that coast, would be an absurd construction of the law of blockade. There could, in fact, be no blockade of Brashear, since it was, and long had been, in our military possession.

This question cannot arise in Blydenburgh's claim, because Butte la Rose being on Grand river, the transportation there-

from to Brashear City was exclusively internal, not touching the blockaded coast at all.

2. The officers of the Navy were expressly forbidden, by orders of the Secretary of the Navy, to prohibit, or in any manner interfere with, any purchase, sale, or *transportation* which should be conducted under the regulations of the Secretary of the Treasury, unless under some imperative military necessity in the place or section where the same should be conducted, or unless requested by an agent or some other authorized officer of the Treasury Department, in which case naval officers were required to render such aid in carrying out the provisions of the law, and *in enforcing due observance of the regulations of the Secretary of the Treasury* as could be given without manifest injury to the public service. (*Nav. Orders* 31 *March*, 1863; see *Trade Reg.*, 11 *Sept.*, 1863.)

This order is utterly inconsistent with any naval capture, as prize, of goods lawfully purchased or transported under a permit of the Treasury agents.

3. The A. G. Brown was a Government transport, under control of the quartermaster's department, constantly running in these waters. She was not the subject of capture for breaking blockade, for she was engaged as legitimately in running to and from Brashear City as was the Wyanza.

She was regularly and lawfully hired, by order of the chief quartermaster, to transport these goods for the sum of $3,000, which was paid by Weed, and applied to the use of the Government by paying expenses of the quartermaster's department in Louisiana, and properly accounted for.

It cannot be said that this hiring for the Government's benefit was unauthorized. The orders of the Secretary of War of 11th September, 1863, in aid of the trade regulations of the Treasury, contemplate the transportation of property under the regulations, and provide for the settlement of expenses thereof. (See *Trade Reg.*, 11*th Sept.*, 1863.)

The expedition had the approval and aid of the military commander of the district, who assigned a guard to protect the vessel and property from any possible danger.

We have, then, as a case of naval capture in prize, a cargo lawfully carried on a Government vessel, under a guard assigned by the military commander of the district, for carrying which the captor's Government actually received $3,000.

We submit that there was no ground of capture for breach of blockade.

FIFTH.

The goods seized by the Wyanza being then neither enemy property nor liable for breach of blockade, there was no lawful ground of capture as prize of war, and the prize court had no jurisdiction of the seizure.

SIXTH.

Neither were they of the class of abandoned or captured property under the first, second, and third sections of the act of 12th March, 1863, chap. 120, (12 *Stat.*, 820,) which might be received and sold, and the proceeds thereof paid into the United States Treasury; nor were they of the class of property, under the fourth section of that act, subject to confiscation as coming from States in rebellion to loyal States without a lawful clearance; nor yet were they of the class of property subject to confiscation under the acts of 6th August, 1861, chap. 60, (12 *Stat.*, 319,) and 17th July, 1862, chap. 195, (12 *Stat.*, 589,) for appropriation in aid of, or as belonging to persons engaged in, the rebellion. There is, therefore, no lawful ground for their detention by the United States for any judicial proceedings, and the decree of restitution ought to be affirmed.

(See, generally, *Letter of Secretary of Treasury to Supervising Special Agent Mellen*, 3d *July*, 1863, *Trade Reg.*, 11 *Sept.*, 1864.)

SEVENTH.

The proceedings in the district court in these cases cannot be sustained under the law and practice of prize.

The property brought in and libeled was removed from the vessel, which was equally guilty of the alleged offense of breaking blockade.

No ships' papers, or other documentary proofs of ownership or destination, were brought in by the prize master.

Nor were proper witnesses brought in for examination *in preparatorio*. Two were prize masters and none were cognizant of the facts and purposes of the expedition.

Even these were not examined on the standing interrogatories in prize, or as to matters proper for the information of a prize court.

On the meager preparatory examinations, no ground whatever was shown for condemnation in prize, and restitution should have been made on the full and satisfactory statements under oath attached to the claims.

TITIAN J. COFFEY,

Of Counsel for Claimants.